
HOUSE BILL 1885

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Moscoso, Rolfes, and Fitzgibbon

Read first time 02/08/11. Referred to Committee on Environment.

1 AN ACT Relating to providing streamlining improvements in the
2 administration of programs affecting the natural environment; amending
3 RCW 79A.05.020, 79A.05.045, 79A.05.190, 70.93.200, 70.93.220,
4 70.93.250, 70.95I.080, 70.95J.025, 70.105.210, 70.105.220, 70.105.160,
5 90.82.080, 90.42.130, 90.80.150, 90.54.160, 90.44.052, 90.90.030,
6 90.90.040, 90.82.043, 70.107.030, 70.107.060, 70.95.290, 89.08.040,
7 89.08.050, 43.23.130, 15.85.050, 77.04.120, 77.04.150, 77.12.068,
8 77.12.184, 77.12.702, 77.12.755, 77.12.820, 77.60.130, 77.85.220,
9 77.85.230, 77.95.020, 77.95.190, 77.95.200, 77.95.230, 77.95.310,
10 77.100.050, 43.30.340, 76.06.150, 79.10.010, 79.02.260, 79.17.010,
11 79.17.020, 79.19.100, 79.125.040, 79.125.710, 79.140.020, 79.105.410,
12 90.71.010, 90.71.230, 90.71.250, 90.71.260, 90.71.270, 90.71.280,
13 90.71.290, 90.71.310, 90.71.340, 90.71.360, 43.155.070, 70.105D.070,
14 70.146.070, 79.105.150, 79A.15.040, and 89.08.520; reenacting and
15 amending RCW 79A.05.030, 77.85.140, and 77.85.130; and repealing RCW
16 79A.05.195, 79A.05.351, 70.95C.250, 70.95H.005, 70.95H.007, 70.95H.010,
17 70.95H.030, 70.95H.040, 70.95H.050, 70.95H.900, 70.95H.901, 70.107.080,
18 70.93.090, 79.125.730, 77.95.140, 77.95.150, 77.95.160, 43.30.345,
19 43.30.360, 43.30.370, 79.125.610, 43.155.110, 70.105D.120, 70.146.110,
20 77.85.240, 79.105.610, 79A.15.140, 89.08.580, 90.50A.080, and

1 90.71.300.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

3 **PART 1**

4 **STATE PARKS AND RECREATION COMMISSION**

5 **Sec. 101.** RCW 79A.05.020 and 1999 c 249 s 301 are each amended to
6 read as follows:

7 (1) In addition to whatever other duties may exist in law or be
8 imposed in the future, it is the duty of the commission to:

9 ~~((1))~~ (a) Implement integrated pest management practices and
10 regulate pests as required by RCW 17.15.020;

11 ~~((2))~~ (b) Take steps necessary to control spartina and purple
12 loosestrife as required by RCW 17.26.020;

13 ~~((3))~~ (c) Participate in the implementation of chapter 19.02 RCW;

14 ~~((4) Coordinate planning and provide staffing and administrative
15 assistance to the Lewis and Clark trail committee as required by RCW
16 27.34.340;~~

17 ~~(5))~~ (d) Administer those portions of chapter 46.10 RCW not
18 dealing with registration and licensing of snowmobiles as required by
19 RCW ~~((46.10.210))~~ 46.10.370;

20 ~~((6))~~ (e) Consult and participate in the scenic and recreational
21 highway system as required by chapter 47.39 RCW; and

22 ~~((7))~~ (f) Develop, prepare, and distribute information relating
23 to marine oil recycling tanks and sewage holding tank pumping stations,
24 in cooperation with other departments, as required by chapter 88.02
25 RCW.

26 (2) The commission has the power reasonably necessary to carry out
27 these duties.

28 **Sec. 102.** RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5 are
29 each reenacted and amended to read as follows:

30 The commission shall:

31 (1) Have the care, charge, control, and supervision of all parks
32 and parkways acquired or set aside by the state for park or parkway
33 purposes.

1 (2) Adopt policies, and adopt, issue, and enforce rules pertaining
2 to the use, care, and administration of state parks and parkways. The
3 commission (~~((shall cause a copy of the rules to be kept posted in a
4 conspicuous place in every state park to which they are applicable, but
5 failure to post or keep any rule posted shall be no defense to any
6 prosecution for the violation thereof))~~) must maintain the rules that
7 are relevant to each park in a manner that is accessible to park
8 visitors.

9 (3) Permit the use of state parks and parkways by the public under
10 (~~((such))~~) rules (~~((as shall be))~~) adopted by the commission.

11 (4) Clear, drain, grade, seed, and otherwise improve or beautify
12 parks and parkways, and erect structures, buildings, fireplaces, and
13 comfort stations and build and maintain paths, trails, and roadways
14 through or on parks and parkways.

15 (5) Grant concessions or leases in state parks and parkways, upon
16 (~~((such))~~) rentals, fees, or percentage of income or profits and for
17 (~~((such))~~) set terms, in no event longer than fifty years, and upon
18 (~~((such))~~) set conditions as shall be approved by the commission.
19 However: (~~((PROVIDED, That))~~)

20 (a) Leases exceeding a twenty-year term shall require a unanimous
21 vote of the commission(~~((:—PROVIDED FURTHER, That))~~);

22 (b) If, during the term of any concession or lease, it is the
23 opinion of the commission that it would be in the best interest of the
24 state, the commission may, with the consent of the concessionaire or
25 lessee, alter and amend the terms and conditions of (~~((such))~~) the
26 concession or lease(~~((:—PROVIDED FURTHER, That))~~);

27 (c) Television station leases shall be subject to the provisions of
28 RCW 79A.05.085(~~((, only:—PROVIDED FURTHER, That))~~) and the rates of
29 (~~((such))~~) television station concessions or leases shall be renegotiated
30 at five-year intervals(~~((:—))~~); and

31 (d) No concession shall be granted (~~((which))~~) that will prevent the
32 public from having free access to the scenic attractions of any park or
33 parkway.

34 (6) Employ such assistance as it deems necessary. Commission
35 expenses relating to its use of volunteer assistance shall be limited
36 to premiums or assessments for the insurance of volunteers by the
37 department of labor and industries, compensation of staff who assist
38 volunteers, materials and equipment used in authorized volunteer

1 projects, training, reimbursement of volunteer travel as provided in
2 RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to
3 volunteer recognition. The commission, at its discretion, may waive
4 commission fees otherwise applicable to volunteers. The commission
5 shall not use volunteers to replace or supplant classified positions.
6 The use of volunteers may not lead to the elimination of any employees
7 or permanent positions in the bargaining unit.

8 (7) By majority vote of its authorized membership select and
9 purchase or obtain options upon, lease, or otherwise acquire for and in
10 the name of the state such tracts of land, including shore and tide
11 lands, for park and parkway purposes as it deems proper. If the
12 commission cannot acquire any tract at a price it deems reasonable, it
13 may, by majority vote of its authorized membership, obtain title
14 thereto, or any part thereof, by condemnation proceedings conducted by
15 the attorney general as provided for the condemnation of rights-of-way
16 for state highways. Option agreements executed under authority of this
17 subsection shall be valid only if:

18 (a) The cost of the option agreement does not exceed one dollar;
19 and

20 (b) Moneys used for the purchase of the option agreement are from
21 (i) funds appropriated therefor, or (ii) funds appropriated for
22 undesignated land acquisitions, or (iii) funds deemed by the commission
23 to be in excess of the amount necessary for the purposes for which they
24 were appropriated; and

25 (c) The maximum amount payable for the property upon exercise of
26 the option does not exceed the appraised value of the property.

27 (8) Cooperate with the United States, or any county or city of this
28 state, in any matter pertaining to the acquisition, development,
29 redevelopment, renovation, care, control, or supervision of any park or
30 parkway, and enter into contracts in writing to that end. All parks or
31 parkways, to which the state contributed or in whose care, control, or
32 supervision the state participated pursuant to the provisions of this
33 section, shall be governed by the provisions hereof.

34 (9) Within allowable resources, maintain policies that increase the
35 number of people who have access to free or low-cost recreational
36 opportunities for physical activity, including noncompetitive physical
37 activity.

1 (10) Adopt rules establishing the requirements for a criminal
2 history record information search for the following: Job applicants,
3 volunteers, and independent contractors who have unsupervised access to
4 children or vulnerable adults, or who will be responsible for
5 collecting or disbursing cash or processing credit/debit card
6 transactions. These background checks will be done through the
7 Washington state patrol criminal identification section and may include
8 a national check from the federal bureau of investigation, which shall
9 be through the submission of fingerprints. A permanent employee of the
10 commission, employed as of July 24, 2005, is exempt from the provisions
11 of this subsection.

12 **Sec. 103.** RCW 79A.05.045 and 1999 c 249 s 304 are each amended to
13 read as follows:

14 (1) The commission shall, when the commission determines there is
15 funding for such a purpose, provide waste reduction and recycling
16 information and opportunities in each state park campground and day-use
17 area.

18 ~~(2) ((The commission shall provide recycling receptacles in the~~
19 ~~day-use and campground areas of at least forty state parks. The~~
20 ~~receptacles shall be clearly marked for the disposal of at least two of~~
21 ~~the following recyclable materials: Aluminum, glass, newspaper,~~
22 ~~plastic, and tin. The commission shall endeavor to provide recycling~~
23 ~~receptacles in parks that are near urban centers or in heavily used~~
24 ~~parks.~~

25 ~~(3) The commission shall provide daily maintenance of such~~
26 ~~receptacles from April through September of each year.~~

27 ~~(4))~~ The commission is authorized to enter into agreements with
28 any person, company, or nonprofit organization to provide for the
29 collection and transport of recyclable materials and related activities
30 under this section.

31 **Sec. 104.** RCW 79A.05.190 and 1997 c 150 s 2 are each amended to
32 read as follows:

33 ~~((1) By September 1, 1997,))~~ The commission ~~((shall increase))~~ may
34 not decrease the area available for use by recreational metal detectors
35 ~~((by at least two hundred acres.~~

1 (6) Investigate the availability of, and apply for funds available
2 from any private or public source to be used in the program outlined in
3 this chapter;

4 (7) Develop statewide programs by working with local governments,
5 payers of the waste reduction, recycling, and litter control tax, and
6 industry organizations that are active in waste reduction, anti-litter,
7 and recycling efforts to increase public awareness of and participation
8 in recycling and to stimulate and encourage local private recycling
9 centers, public participation in recycling and research and development
10 in the field of litter control, and recycling, removal, and disposal of
11 litter-related recycling materials;

12 (8) Conduct a ~~((biennial))~~ periodic statewide litter survey
13 targeted at litter composition, sources, demographics, and geographic
14 trends; and

15 (9) Provide ~~((a biennial))~~, when requested by the governor or the
16 legislature, a periodic summary of all waste reduction, litter control,
17 and recycling efforts statewide including those of the department ~~((of~~
18 ~~ecology))~~, and other state agencies and local governments funded for
19 such programs under this chapter. ~~((This report is due to the~~
20 ~~legislature in March of even-numbered years.))~~

21 **Sec. 202.** RCW 70.93.220 and 1998 c 257 s 6 are each amended to
22 read as follows:

23 (1) The department ~~((of ecology))~~ is the coordinating and
24 administrative agency working with the departments of natural
25 resources, revenue, transportation, and corrections, and the parks and
26 recreation commission in developing a biennial budget request for funds
27 for the various agencies' litter collection programs.

28 (2) Funds may be used to meet the needs of efficient and effective
29 litter collection and illegal dumping programs identified by the
30 various agencies. The department shall develop criteria for evaluating
31 the effectiveness and efficiency of the waste reduction, litter
32 control, and recycling programs being administered by the various
33 agencies listed in RCW 70.93.180, and shall distribute funds according
34 to the effectiveness and efficiency of those programs. In addition,
35 the department shall approve funding requests for efficient and
36 effective waste reduction, litter control, and recycling programs,
37 provide funds, and monitor the results of all agency programs.

1 (3) All agencies are responsible for reporting information on their
2 litter collection programs(~~(7)~~) as requested by the department (~~(of~~
3 ~~ecology. Beginning in the year 2000, this information shall be~~
4 ~~provided to the department by March of even numbered years. In 1998,~~
5 ~~this information shall be provided by July 1st.~~

6 ~~(4) By December 1998, and in every even numbered year thereafter,~~
7 ~~the department shall provide a report to the legislature summarizing~~
8 ~~biennial waste reduction, litter control, and recycling activities by~~
9 ~~state agencies and submitting the coordinated litter budget request of~~
10 ~~all agencies)).~~

11 **Sec. 203.** RCW 70.93.250 and 2002 c 175 s 46 are each amended to
12 read as follows:

13 (1) The department shall provide funding to local units of
14 government to establish, conduct, and evaluate community restitution
15 and other programs for waste reduction, litter and illegal dump
16 cleanup, and recycling. Programs eligible for funding under this
17 section shall include, but not be limited to, programs established
18 pursuant to RCW 72.09.260.

19 (2) Funds may be offered for costs associated with community waste
20 reduction, litter cleanup and prevention, and recycling activities.
21 The funding program must be flexible, allowing local governments to use
22 funds broadly to meet their needs to reduce waste, control litter and
23 illegal dumping, and promote recycling. Local governments are required
24 to contribute resources or in-kind services. The department shall
25 evaluate funding requests from local government according to the same
26 criteria as those developed in RCW 70.93.220, provide funds according
27 to the effectiveness and efficiency of local government litter control
28 programs, and monitor the results of all local government programs
29 under this section.

30 (3) Local governments shall report information as requested by the
31 department in funding agreements entered into by the department and a
32 local government. (~~The department shall report to the appropriate~~
33 ~~standing committees of the legislature by December of even numbered~~
34 ~~years on the effectiveness of local government waste reduction, litter,~~
35 ~~and recycling programs funded under this section.))~~

1 **Sec. 204.** RCW 70.95I.080 and 1986 c 37 s 1 are each amended to
2 read as follows:

3 ~~((By January 1, 1987, the state fire protection board, in~~
4 ~~cooperation with))~~ The department ~~((of ecology,))~~ shall ~~((develop))~~
5 maintain, as necessary, a statewide standard for the placement of
6 above-ground tanks to collect used oil from private individuals for
7 recycling purposes.

8 **Sec. 205.** RCW 70.95J.025 and 1997 c 398 s 1 are each amended to
9 read as follows:

10 (1) The department shall establish annual fees to collect expenses
11 for issuing and administering biosolids permits under this chapter. An
12 initial fee schedule shall be established by rule and shall be adjusted
13 no more often than once every two years. This fee schedule applies to
14 all permits, regardless of date of issuance, and fees shall be assessed
15 prospectively. Fees shall be established in amounts to recover
16 expenses incurred by the department in processing permit applications
17 and modifications, reviewing related plans and documents, monitoring,
18 evaluating, conducting inspections, overseeing performance of delegated
19 program elements, providing technical assistance and supporting
20 overhead expenses that are directly related to these activities.

21 (2) The annual fee paid by a permittee for any permit issued under
22 this chapter shall be determined by the number of residences or
23 residential equivalents contributing to the permittee's biosolids
24 management system. If residences or residential equivalents cannot be
25 determined or reasonably estimated, fees shall be based on other
26 appropriate criteria.

27 (3) The biosolids permit account is created in the state treasury.
28 All receipts from fees under this section must be deposited into the
29 account. Moneys in the account may be spent only after appropriation.
30 Expenditures from the account may be used only for the purposes of
31 administering permits under this chapter.

32 ~~(4) ((The department shall present a biennial progress report on~~
33 ~~the use of moneys from the biosolids permit account to the legislature.~~
34 ~~The first report is due on or before December 31, 1998, and thereafter~~
35 ~~on or before December 31st of odd-numbered years. The report shall~~
36 ~~consist of information on fees collected, actual expenses incurred, and~~
37 ~~anticipated expenses for the current and following fiscal years.~~

1 ~~(5))~~) The department shall work with the regulated community and
2 local health departments to study the feasibility of modifying the fee
3 schedule to support delegated local health departments and reduce local
4 health department fees paid by biosolids permittees.

5 **Sec. 206.** RCW 70.105.210 and 1989 1st ex.s. c 13 s 2 are each
6 amended to read as follows:

7 ~~((By May 31, 1990,))~~ The department shall ~~((develop and adopt))~~
8 maintain criteria for the siting of hazardous waste management
9 facilities. These criteria will be part of the state hazardous waste
10 management plan as described in RCW 70.105.200. To the extent
11 practical, these criteria shall be designed to minimize the short-term
12 and long-term risks and costs that may result from hazardous waste
13 management facilities. These criteria may vary by type of facilities
14 and may consider natural site characteristics and engineered
15 protection. Criteria may be established for:

- 16 (1) Geology;
- 17 (2) Surface and groundwater hydrology;
- 18 (3) Soils;
- 19 (4) Flooding;
- 20 (5) Climatic factors;
- 21 (6) Unique or endangered flora and fauna;
- 22 (7) Transportation routes;
- 23 (8) Site access;
- 24 (9) Buffer zones;
- 25 (10) Availability of utilities and public services;
- 26 (11) Compatibility with existing uses of land;
- 27 (12) Shorelines and wetlands;
- 28 (13) Sole-source aquifers;
- 29 (14) Natural hazards; and
- 30 (15) Other factors as determined by the department.

31 **Sec. 207.** RCW 70.105.220 and 1992 c 17 s 1 are each amended to
32 read as follows:

33 (1) Each local government, or combination of contiguous local
34 governments, is directed to prepare a local hazardous waste plan which
35 shall be based on state guidelines and include ~~((the following~~
36 ~~elements:~~

1 (a)) a plan or program to manage moderate-risk wastes that are
2 generated or otherwise present within the jurisdiction. This element
3 shall include an assessment of the quantities, types, generators, and
4 fate of moderate-risk wastes in the jurisdiction. The purpose of this
5 element is to develop a system of managing moderate-risk waste,
6 appropriate to each local area, and to ensure protection of the
7 environment and public health((+

8 ~~(b) A plan or program to provide for ongoing public involvement and
9 public education in regard to the management of moderate-risk waste.
10 This element shall provide information regarding:~~

11 ~~(i) The potential hazards to human health and the environment
12 resulting from improper use and disposal of the waste; and~~

13 ~~(ii) Proper methods of handling, reducing, recycling, and disposing
14 of the waste;~~

15 ~~(c) An inventory of all existing generators of hazardous waste and
16 facilities managing hazardous waste within the jurisdiction. This
17 inventory shall be based on data provided by the department;~~

18 ~~(d) A description of the public involvement process used in
19 developing the plan;~~

20 ~~(e) A description of the eligible zones designated in accordance
21 with RCW 70.105.225. However, the requirement to designate eligible
22 zones shall not be considered part of the local hazardous waste
23 planning requirements; and~~

24 ~~(f) Other elements as deemed appropriate by local government)).~~

25 (2) To the maximum extent practicable, the local hazardous waste
26 plan shall be coordinated with other hazardous materials-related plans
27 and policies in the jurisdiction.

28 (3) Local governments shall coordinate with those persons involved
29 in providing privately owned hazardous and moderate-risk waste
30 facilities and services as follows: If a local government determines
31 that a moderate-risk waste will be or is adequately managed by one or
32 more privately owned facilities or services at a reasonable price, the
33 local government shall take actions to encourage the use of that
34 private facility or service. Actions taken by a local government under
35 this subsection may include, but are not limited to, restricting or
36 prohibiting the land disposal of a moderate-risk waste at any transfer
37 station or land disposal facility within its jurisdiction.

1 (4)(a) The department shall ~~((prepare))~~ maintain guidelines for the
2 development of local hazardous waste plans. ~~((The guidelines shall be
3 prepared in consultation with local governments and shall be completed
4 by December 31, 1986.))~~ The guidelines shall include a list of
5 substances identified as hazardous household substances.

6 (b) ~~((In preparing the guidelines under (a) of this subsection, the
7 department shall review and assess information on pilot projects that
8 have been conducted for moderate risk waste management.))~~ The
9 department shall encourage ~~((additional))~~ pilot projects for moderate
10 risk water management as needed to provide information to improve and
11 update the guidelines.

12 (5) The department shall consult with retailers, trade
13 associations, public interest groups, and appropriate units of local
14 government to encourage the development of voluntary public education
15 programs on the proper handling of hazardous household substances.

16 (6) ~~((Local hazardous waste plans shall be completed and submitted
17 to the department no later than June 30, 1990.))~~ Local governments may
18 ~~((from time to time))~~ amend the local ~~((plan))~~ hazardous waste plans as
19 necessary.

20 (7) Each local government, or combination of contiguous local
21 governments, shall submit ~~((its))~~ local hazardous waste plan ~~((or))~~
22 amendments ~~((thereto))~~ to the department. The department shall approve
23 or disapprove a local hazardous waste ~~((plans or amendments by December
24 31, 1990, or))~~ plan within ninety days of submission~~((, whichever is
25 later))~~. The department shall approve a local hazardous waste plan
26 amendment if it determines that the plan is consistent with this
27 chapter and the guidelines under subsection (4) of this section. If
28 approval is denied, the department shall submit its objections to the
29 local government within ninety days of submission. ~~((However, for
30 plans submitted between January 1, 1990, and June 30, 1990, the
31 department shall have one hundred eighty days to submit its
32 objections.))~~ No local government is eligible for grants under RCW
33 70.105.235 for implementing a local hazardous waste plan unless the
34 plan for that jurisdiction has been approved by the department.

35 (8) ~~((Each local government, or combination of contiguous local
36 governments, shall implement the local hazardous waste plan for its
37 jurisdiction by December 31, 1991.))~~

1 (9)) The department may waive the specific requirements of this
2 section for any local government if such local government demonstrates
3 to the satisfaction of the department that the objectives of the
4 planning requirements have been met.

5 **Sec. 208.** RCW 70.105.160 and 2010 1st sp.s. c 7 s 89 are each
6 amended to read as follows:

7 (1) The department shall conduct a study to determine the best
8 management practices for categories of waste for the priority waste
9 management methods established in RCW 70.105.150, with due
10 consideration in the course of the study to sound environmental
11 management and available technology. As an element of the study, the
12 department shall review methods that will help achieve the priority of
13 RCW 70.105.150(1)(a), waste reduction. Before issuing any proposed
14 rules, the department shall conduct public hearings regarding the best
15 management practices for the various waste categories studied by the
16 department. After conducting the study, the department shall prepare
17 new rules or modify existing rules as appropriate to promote
18 implementation of the priorities established in RCW 70.105.150 for
19 management practices which assure use of sound environmental management
20 techniques and available technology. ~~((The preliminary study shall be
21 completed by July 1, 1986, and the rules shall be adopted by July 1,
22 1987.))~~

23 (2) The studies shall be updated ~~((at least once every five years))~~
24 as deemed necessary by the department. The funding for these
25 ~~((studies))~~ study updates shall be from the hazardous waste control and
26 elimination account, subject to legislative appropriation.

27 **Sec. 209.** RCW 90.82.080 and 2003 1st sp.s. c 4 s 4 are each
28 amended to read as follows:

29 (1)(a) If the initiating governments choose, by majority vote, to
30 include an instream flow component, it shall be accomplished in the
31 following manner:

32 (i) If minimum instream flows have already been adopted by rule for
33 a stream within the management area, unless the members of the local
34 governments and tribes on the planning unit by a recorded unanimous
35 vote request the department to modify those flows, the minimum instream
36 flows shall not be modified under this chapter. If the members of

1 local governments and tribes request the planning unit to modify
2 instream flows and unanimous approval of the decision to modify such
3 flow is not achieved, then the instream flows shall not be modified
4 under this section;

5 (ii) If minimum stream flows have not been adopted by rule for a
6 stream within the management area, setting the minimum instream flows
7 shall be a collaborative effort between the department and members of
8 the planning unit. The department must attempt to achieve consensus
9 and approval among the members of the planning unit regarding the
10 minimum flows to be adopted by the department. Approval is achieved if
11 all government members and tribes that have been invited and accepted
12 on the planning unit present for a recorded vote unanimously vote to
13 support the proposed minimum instream flows, and all nongovernmental
14 members of the planning unit present for the recorded vote, by a
15 majority, vote to support the proposed minimum instream flows.

16 (b) The department shall undertake rule making to adopt flows under
17 (a) of this subsection. The department may adopt the rules either by
18 the regular rules adoption process provided in chapter 34.05 RCW, the
19 expedited rules adoption process as set forth in RCW 34.05.353, or
20 through a rules adoption process that uses public hearings and notice
21 provided by the county legislative authority to the greatest extent
22 possible. Such rules do not constitute significant legislative rules
23 as defined in RCW 34.05.328, and do not require the preparation of
24 small business economic impact statements.

25 (c) If approval is not achieved within four years of the date the
26 planning unit first receives funds from the department for conducting
27 watershed assessments under RCW 90.82.040, the department may promptly
28 initiate rule making under chapter 34.05 RCW to establish flows for
29 those streams and shall have two additional years to establish the
30 instream flows for those streams for which approval is not achieved.

31 (2)(a) Notwithstanding RCW 90.03.345, minimum instream flows set
32 under this section for rivers or streams that do not have existing
33 minimum instream flow levels set by rule of the department shall have
34 a priority date of two years after funding is first received from the
35 department under RCW 90.82.040, unless determined otherwise by a
36 unanimous vote of the members of the planning unit but in no instance
37 may it be later than the effective date of the rule adopting such flow.

1 (b) Any increase to an existing minimum instream flow set by rule
2 of the department shall have a priority date of two years after funding
3 is first received for planning in the WRIA or multi-WRIA area from the
4 department under RCW 90.82.040 and the priority date of the portion of
5 the minimum instream flow previously established by rule shall retain
6 its priority date as established under RCW 90.03.345.

7 (c) Any existing minimum instream flow set by rule of the
8 department that is reduced shall retain its original date of priority
9 as established by RCW 90.03.345 for the revised amount of the minimum
10 instream flow level.

11 (3) Before setting minimum instream flows under this section, the
12 department shall engage in government-to-government consultation with
13 affected tribes in the management area regarding the setting of such
14 flows.

15 (4) Nothing in this chapter either: (a) Affects the department's
16 authority to establish flow requirements or other conditions under RCW
17 90.48.260 or the federal clean water act (33 U.S.C. Sec. 1251 et seq.)
18 for the licensing or relicensing of a hydroelectric power project under
19 the federal power act (16 U.S.C. Sec. 791 et seq.); or (b) affects or
20 impairs existing instream flow requirements and other conditions in a
21 current license for a hydroelectric power project licensed under the
22 federal power act.

23 (5) If the planning unit is unable to obtain unanimity under
24 subsection (1) of this section, the department may adopt rules setting
25 such flows.

26 (6) The department shall report (~~(annually)~~) when requested to the
27 appropriate legislative standing committees on the progress of instream
28 flows being set under this chapter, as well as progress toward setting
29 instream flows in those watersheds not being planned under this
30 chapter. (~~(The report shall be made by December 1, 2003, and by~~
31 ~~December 1st of each subsequent year.)~~)

32 **Sec. 210.** RCW 90.42.130 and 2003 c 144 s 5 are each amended to
33 read as follows:

34 (~~(+1)~~) When deemed beneficial, the department shall seek input
35 from agricultural organizations, federal agencies, tribal governments,
36 local governments, watershed groups, conservation groups, and
37 developers on water banking, including water banking procedures and

1 identification of areas in Washington ((state)) where water banking
2 could assist in providing water supplies for instream and out-of-stream
3 uses. (~~The department shall summarize any comments received on water
4 banking and submit a report, including any recommendations, to the
5 appropriate committees of the legislature for their consideration in
6 the subsequent legislative session.~~

7 ~~(2) By December 31st of every even-numbered year, the department
8 shall submit a report to the appropriate committees of the legislature
9 on water banking activities authorized under RCW 90.42.100. The report
10 shall:~~

11 ~~(a) Evaluate the effectiveness of water banking in meeting the
12 policies and objectives of this chapter;~~

13 ~~(b) Describe any statutory, regulatory, or other impediments to
14 water banking in other areas of the state; and~~

15 ~~(c) Identify other basins or regions that may benefit from
16 authorization for the department to use the trust water [rights]
17 program for water banking purposes.)~~

18 **Sec. 211.** RCW 90.80.150 and 2001 c 237 s 21 are each amended to
19 read as follows:

20 When so requested, the department shall report ((biennially by
21 December 31st of each even-numbered year)) to the appropriate
22 committees of the legislature ((on)), consistent with RCW 43.01.036,
23 regarding the boards formed or sought to be formed under the authority
24 of this chapter, the transfer applications reviewed and other
25 activities conducted by the boards, and the funding of such boards.
26 Conservancy boards must provide information regarding their activities
27 to the department to assist the department in preparing the report.

28 **Sec. 212.** RCW 90.54.160 and 1984 c 83 s 1 are each amended to read
29 as follows:

30 When so requested, the department of ecology shall report to the
31 legislature ((on the last working day of December of 1984, 1985, and
32 1986, and thereafter as deemed appropriate by the department, on)),
33 consistent with RCW 43.01.036, regarding dam facilities that exhibit
34 safety deficiencies sufficient to pose a significant threat to the
35 safety of life and property. The report shall identify the owner or

1 owners of such facilities, detail the owner's ability and attitude
2 towards correcting such deficiencies, and provide an estimate of the
3 cost of correcting the deficiencies if a study has been completed.

4 **Sec. 213.** RCW 90.44.052 and 2003 c 307 s 2 are each amended to
5 read as follows:

6 (1) On a pilot project basis, the use of water for domestic use in
7 clustered residential developments is exempt as described in subsection
8 (2) of this section from the permit requirements of RCW 90.44.050 in
9 Whitman county. The department must review the use of water under this
10 section and its impact on water resources in the county and when
11 requested to do so report to the legislature (~~((by December 31st of each~~
12 ~~even-numbered year through 2016 regarding its review))~~), consistent with
13 RCW 43.01.036.

14 (2) For the pilot project, the domestic use of water for a
15 clustered residential development is exempt from the permit
16 requirements of RCW 90.44.050 for an amount of water that is not more
17 than one thousand two hundred gallons a day per residence for a
18 residential development that has an overall density equal to or less
19 than one residence per ten acres and a minimum of six homes.

20 (3) No new right to use water may be established for a clustered
21 development under this section where the first residential use of water
22 for the development begins after December 31, 2015.

23 **Sec. 214.** RCW 90.90.030 and 2006 c 6 s 4 are each amended to read
24 as follows:

25 (1) The department of ecology may enter into voluntary regional
26 agreements for the purpose of providing new water for out-of-stream
27 use, streamlining the application process, and protecting instream
28 flow.

29 (2) Such agreements shall ensure that:

30 (a) For water rights issued from the Columbia river mainstem, there
31 is no negative impact on Columbia river mainstem instream flows in the
32 months of July and August as a result of the new appropriations issued
33 under the agreement;

34 (b) For water rights issued from the lower Snake river mainstem,
35 there is no negative impact on Snake river mainstem instream flows from

1 April through August as a result of the new appropriations issued under
2 the agreement; and

3 (c) Efforts are made to harmonize such agreements with watershed
4 plans adopted under the authority of chapter 90.82 RCW that are
5 applicable to the area covered by the agreement.

6 (3) The protection of instream flow as set forth in subsection (2)
7 of this section is adequate for purposes of mitigating instream flow
8 impacts resulting from any appropriations for out-of-stream use made
9 under a voluntary regional agreement, and the only applicable
10 consultation provisions under state law regarding instream flow impacts
11 shall be those set forth in subsection (4) of this section.

12 (4) Before executing a voluntary agreement under this section, the
13 department of ecology shall:

14 (a) Provide a sixty-day period for consultation with county
15 legislative authorities and watershed planning groups with jurisdiction
16 over the area where the water rights included in the agreement are
17 located, the department of fish and wildlife, and affected tribal
18 governments, and federal agencies. The department of fish and wildlife
19 shall provide written comments within that time period. The
20 consultation process for voluntary regional agreements developed under
21 the provisions of this section is deemed adequate for the issuance of
22 new water rights provided for in this section and satisfies all
23 consultation requirements under state law related to the issuance of
24 new water rights; and

25 (b) Provide a thirty-day public review and comment period for a
26 draft agreement, and publish a summary of any public comments received.
27 The thirty-day review period shall not begin until after the department
28 of ecology has concluded its consultation under (a) of this subsection
29 and the comments that have been received by the department are made
30 available to the public.

31 (5) The provisions of subsection (4) of this section satisfy all
32 applicable consultation requirements under state law.

33 (6) The provisions of this section and any voluntary regional
34 agreements developed under such provisions may not be relied upon by
35 the department of ecology as a precedent, standard, or model that must
36 be followed in any other voluntary regional agreements.

37 (7) Nothing in this section may be interpreted or administered in

1 a manner that precludes the processing of water right applications
2 under chapter 90.03 or 90.44 RCW that are not included in a voluntary
3 regional agreement.

4 (8) Nothing in this section may be interpreted or administered in
5 a manner that impairs or diminishes a valid water right or a habitat
6 conservation plan approved for purposes of compliance with the federal
7 endangered species act.

8 (9) The department of ecology shall monitor and evaluate the water
9 allocated to instream and out-of-stream uses under this section,
10 evaluate the program, and provide ~~((an interim report to the
11 appropriate committees of the legislature by June 30, 2008.))~~ a final
12 report ~~((shall be provided to the appropriate committees of))~~ to the
13 legislature consistent with RCW 43.01.036 by June 30, 2011.

14 (10) If the department of ecology executes a voluntary agreement
15 under this section that includes water rights appropriated from the
16 lower Snake river mainstem, the department shall develop aggregate data
17 in accordance with the provisions of RCW 90.90.050 for the lower Snake
18 river mainstem.

19 (11) Any agreement entered into under this section shall remain in
20 full force and effect through the term of the agreement regardless of
21 the expiration of this section.

22 (12) The definitions in this subsection apply to this section and
23 RCW 90.90.050, and may only be used for purposes of implementing these
24 sections.

25 (a) "Columbia river mainstem" means all water in the Columbia river
26 within the ordinary high water mark of the main channel of the Columbia
27 river between the border of the United States and Canada and the
28 Bonneville dam, and all groundwater within one mile of the high water
29 mark.

30 (b) "Lower Snake river mainstem" means all water in the lower Snake
31 river within the ordinary high water mark of the main channel of the
32 lower Snake river from the head of Ice Harbor pool to the confluence of
33 the Snake and Columbia rivers, and all groundwater within one mile of
34 the high water mark.

35 (13) This section expires June 30, 2012.

36 **Sec. 215.** RCW 90.90.040 and 2006 c 6 s 5 are each amended to read
37 as follows:

1 (1) To support the development of new water supplies in the
2 Columbia river and to protect instream flow, the department of ecology
3 shall work with all interested parties, including interested county
4 legislative authorities and watershed planning groups, adjacent to the
5 Columbia river, and affected tribal governments, to develop a Columbia
6 river water supply inventory and a long-term water supply and demand
7 forecast. The inventory must include:

8 (a) A list of conservation projects that have been implemented
9 under this chapter and the amount of water conservation they have
10 achieved; and

11 (b) A list of potential water supply and storage projects in the
12 Columbia river basin, including estimates of:

13 (i) Cost per acre-foot;

14 (ii) Benefit to fish and other instream needs;

15 (iii) Benefit to out-of-stream needs; and

16 (iv) Environmental and cultural impacts.

17 (2) The department of ecology shall ~~((complete the first Columbia
18 river water supply inventory by November 15, 2006, and shall))~~ update
19 the inventory ~~((annually thereafter))~~ as necessary.

20 (3) The department of ecology shall ~~((complete the first Columbia
21 river long term water supply and demand forecast by November 15, 2006,
22 and shall))~~ update the ~~((report every five years thereafter))~~ Columbia
23 river long-term water supply and demand forecast as necessary.

24 **Sec. 216.** RCW 90.82.043 and 2007 c 445 s 6 are each amended to
25 read as follows:

26 (1) Within one year of accepting funding under RCW 90.82.040(2)(e),
27 the planning unit must complete a detailed implementation plan.
28 Submittal of a detailed implementation plan to the department is a
29 condition of receiving grants for the second and all subsequent years
30 of the phase four grant.

31 (2) Each implementation plan must contain strategies to provide
32 sufficient water for: (a) Production agriculture; (b) commercial,
33 industrial, and residential use; and (c) instream flows. Each
34 implementation plan must contain timelines to achieve these strategies
35 and interim milestones to measure progress.

36 (3) The implementation plan must clearly define coordination and

1 oversight responsibilities; any needed interlocal agreements, rules, or
2 ordinances; any needed state or local administrative approvals and
3 permits that must be secured; and specific funding mechanisms.

4 (4) In developing the implementation plan, the planning unit must
5 consult with other entities planning in the watershed management area
6 and identify and seek to eliminate any activities or policies that are
7 duplicative or inconsistent.

8 (5)(a) (~~By December 1, 2003, and by December 1st of each~~
9 ~~subsequent year~~) When so requested, the director of the department
10 shall report to the (~~appropriate legislative standing committees~~)
11 legislature, consistent with RCW 43.01.036, regarding statutory changes
12 necessary to enable state agency approval or permit decision making
13 needed to implement a plan approved under this chapter.

14 (b) (~~Beginning with the December 1, 2007, report, and then every~~
15 ~~two years thereafter,~~) The director shall include in each report, when
16 appropriate, the extent to which reclaimed water has been identified in
17 the watershed plans as potential sources or strategies to meet future
18 water needs, and provisions in any watershed implementation plans that
19 discuss barriers to implementation of the water reuse elements of those
20 plans. The department's report shall include an estimate of the
21 potential cost of reclaimed water facilities and identification of
22 potential sources of funding for them.

23 **Sec. 217.** RCW 70.107.030 and 1974 ex.s. c 183 s 3 are each amended
24 to read as follows:

25 The department is empowered as follows:

26 (1) The department(~~(, after consultation with state agencies~~
27 ~~expressing an interest therein,)) shall (~~adopt, by rule,~~) maintain
28 rules relating to maximum noise levels permissible in identified
29 environments in order to protect against adverse affects of noise on
30 the health, safety, and welfare of the people, the value of property,
31 and the quality of environment(~~(: PROVIDED, That in so doing)~~). The
32 department shall take (~~also~~) into account the economic and practical
33 benefits to be derived from the use of various products in each such
34 environment, whether the source of the noise or the use of such
35 products in each environment is permanent or temporary in nature, and
36 the state of technology relative to the control of noise generated by
37 all such sources of the noise or the products.~~

1 (2) (~~At any time after the adoption of maximum noise levels under~~
2 ~~subsection (1) of this section~~) The department (~~shall~~) may, in
3 consultation with state agencies and local governments expressing an
4 interest (~~therein~~), adopt rules, consistent with the Federal Noise
5 Control Act of 1972 (86 Stat. 1234; 42 U.S.C. Sec. 4901-4918 and 49
6 U.S.C. Sec. 1431), for noise abatement and control in the state
7 designed to achieve compliance with the noise level adopted in
8 subsection (1) of this section, including reasonable implementation
9 schedules where appropriate, to (~~insure~~) ensure that the maximum
10 noise levels are not exceeded and that application of the best
11 practicable noise control technology and practice is provided. These
12 rules may include, but shall not be limited to:

13 (a) Performance standards setting allowable noise limits for the
14 operation of products which produce noise;

15 (b) Use standards regulating, as to time and place, the operation
16 of individual products which produce noise above specified levels
17 considering frequency spectrum and duration(~~(:—PROVIDED,)~~). However,
18 the rules shall provide for temporarily exceeding those standards for
19 stated purposes; and

20 (c) Public information requirements dealing with disclosure of
21 levels and characteristics of noise produced by products.

22 (3) The department may, as desirable in the performance of its
23 duties under this chapter, conduct surveys, studies, and public
24 education programs, and enter into contracts.

25 (4) The department is authorized to apply for and accept moneys
26 from the federal government and other sources to assist in the
27 implementation of this chapter.

28 (5) The legislature recognizes that the operation of motor vehicles
29 on public highways as defined in RCW (~~(46.09.020)~~) 46.09.310
30 contributes significantly to environmental noise levels and directs the
31 department, in exercising the rule-making authority under the
32 provisions of this section, to give first priority to the adoption of
33 motor vehicle noise performance standards.

34 (~~(6) Noise levels and rules adopted by the department pursuant to~~
35 ~~this chapter shall not be effective prior to March 31, 1975.~~)

36 **Sec. 218.** RCW 70.107.060 and 1987 c 103 s 1 are each amended to
37 read as follows:

1 (1) Nothing in this chapter shall be construed to deny, abridge, or
2 alter alternative rights of action or remedies in equity or under
3 common law or statutory law, criminal or civil.

4 (2) Nothing in this chapter shall deny, abridge, or alter any
5 powers, duties, and functions relating to noise abatement and control
6 (~~(now or hereafter)~~) vested in any state agency, nor shall this chapter
7 be construed as granting jurisdiction over the industrial safety and
8 health of employees in work places of the state(~~(, as now or~~
9 ~~hereafter)~~) vested in the department of labor and industries.

10 (3) Standards and other control measures adopted by the department
11 under this chapter shall be exclusive (~~(except as hereinafter~~
12 ~~provided)~~). However, a local government may impose limits or control
13 sources differing from those adopted or controlled by the department
14 upon a finding that such requirements are necessitated by special
15 conditions. (~~(Noise limiting requirements of local government which~~
16 ~~differ from those adopted or controlled by the department shall be~~
17 ~~invalid unless first approved by the department. If the department of~~
18 ~~ecology fails to approve or disapprove standards submitted by local~~
19 ~~governmental jurisdictions within ninety days of submittal, such~~
20 ~~standards shall be deemed approved. If disapproved, the local~~
21 ~~government may appeal the decision to the pollution control hearings~~
22 ~~board which shall decide the appeal on the basis of the provisions of~~
23 ~~this chapter, and the applicable regulations, together with such~~
24 ~~briefs, testimony, and oral argument as the hearings board in its~~
25 ~~discretion may require. The department determination of whether to~~
26 ~~grant approval shall depend on the reasonableness and practicability of~~
27 ~~compliance. Particular attention shall be given to stationary sources~~
28 ~~located near jurisdictional boundaries, and temporary noise producing~~
29 ~~operations which may operate across one or more jurisdictional~~
30 ~~boundaries.)~~)

31 (4) In carrying out the rule-making authority provided in this
32 chapter, the department shall follow the procedures of the
33 administrative procedure act, chapter 34.05 RCW, and shall take care
34 that no rules adopted purport to exercise any powers preempted by the
35 United States under federal law.

36 **Sec. 219.** RCW 70.95.290 and 1988 c 184 s 3 are each amended to
37 read as follows:

1 (1) The evaluation of the solid waste stream required in RCW
2 70.95.280 shall include the following elements:

3 (a) The department shall determine which management method for each
4 category of solid waste will have the least environmental impact; and

5 (b) The department shall evaluate the costs of various management
6 options for each category of solid waste, including a review of market
7 availability, and shall take into consideration the economic impact on
8 affected parties;

9 (c) Based on the results of (a) and (b) of this subsection, the
10 department shall determine the best management for each category of
11 solid waste. Different management methods for the same categories of
12 waste may be developed for different parts of the state.

13 (2) The department shall give priority to evaluating categories of
14 solid waste that, in relation to other categories of solid waste,
15 comprise a large volume of the solid waste stream or present a high
16 potential of harm to human health. ~~((At a minimum the following
17 categories of waste shall be evaluated:~~

18 ~~(a) By January 1, 1989, yard waste and other biodegradable
19 materials, paper products, disposable diapers, and batteries; and~~

20 ~~(b) By January 1, 1990, metals, glass, plastics, styrofoam or rigid
21 lightweight cellular polystyrene, and tires.))~~

22 NEW SECTION. **Sec. 220.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 70.95C.250 (Multimedia permit pilot program--Air, water,
25 hazardous waste management) and 1998 c 245 s 134 & 1994 c 248 s 1;

26 (2) RCW 70.95H.005 (Finding) and 1991 c 319 s 201;

27 (3) RCW 70.95H.007 (Center created) and 1995 c 399 s 192 & 1991 c
28 319 s 202;

29 (4) RCW 70.95H.010 (Purpose--Market development defined) and 1991
30 c 319 s 203;

31 (5) RCW 70.95H.030 (Duties and responsibilities) and 1992 c 131 s
32 2 & 1991 c 319 s 205;

33 (6) RCW 70.95H.040 (Authority) and 1991 c 319 s 206;

34 (7) RCW 70.95H.050 (Funding) and 1995 c 399 s 194 & 1991 c 319 s
35 207;

36 (8) RCW 70.95H.900 (Termination) and 1991 c 319 s 209;

37 (9) RCW 70.95H.901 (Captions not law) and 1991 c 319 s 211;

1 (10) RCW 70.107.080 (Exemptions) and 1974 ex.s. c 183 s 8;
2 (11) RCW 70.93.090 (Litter receptacles--Use of anti-litter symbol--
3 Distribution--Placement--Violations--Penalties) and 1998 c 257 s 4,
4 1979 c 94 s 5, & 1971 ex.s. c 307 s 9; and
5 (12) RCW 79.125.730 (Director of ecology to assist city parks) and
6 2005 c 155 s 519, 1988 c 127 s 34, & 1939 c 157 s 3.

7 **PART 3**

8 **STATE CONSERVATION COMMISSION**

9 **Sec. 301.** RCW 89.08.040 and 2009 c 55 s 1 are each amended to read
10 as follows:

11 (1) Members shall be compensated in accordance with RCW 43.03.250
12 and shall be entitled to travel expenses in accordance with RCW
13 43.03.050 and 43.03.060 incurred in the discharge of their duties.

14 (2) The commission shall keep a record of its official actions,
15 shall adopt a seal, which shall be judicially noticed, and may perform
16 such acts, hold such public hearings, and adopt such rules as may be
17 necessary for the execution of its functions under chapter 184, Laws of
18 1973 1st ex. sess. The state department of ecology is empowered, but
19 not required, to pay the travel expenses of the elected and appointed
20 members of the state conservation commission, and the salaries, wages,
21 and other expenses of such administrative officers or other employees
22 as may be required under the provisions of this chapter.

23 **Sec. 302.** RCW 89.08.050 and 2009 c 55 s 2 are each amended to read
24 as follows:

25 (1) The commission may employ an administrative officer, and such
26 technical experts and such other agents and employees, permanent and
27 temporary as it may require, and shall determine their qualifications,
28 duties, and compensation. The commission may call upon the attorney
29 general for such legal services as it may require.

30 ((It)) (2) The commission shall have authority to delegate to
31 ((its)) the chair, to one or more of its members, to one or more agents
32 or employees ((such)) those duties and powers ((as it deems)) deemed
33 proper by the commission. As long as the commission and the office of
34 financial management under the provisions of chapter 43.82 RCW deems it
35 appropriate and financially justifiable to do so, the commission shall

1 be supplied with suitable office accommodations at the central office
2 of the department of ecology, and shall be furnished the necessary
3 supplies and equipment.

4 (3) The commission shall (~~organize annually and~~) select a chair
5 from among its members, who shall serve for (~~one year from the date of~~
6 ~~the chair's selection~~) a length of time to be determined by the
7 commission. A majority of the commission shall constitute a quorum and
8 all actions of the commission shall be by a majority vote of the
9 members present and voting at a meeting at which a quorum is present.

10 **PART 4**

11 **DEPARTMENT OF AGRICULTURE**

12 **Sec. 401.** RCW 43.23.130 and 2009 c 549 s 5107 are each amended to
13 read as follows:

14 The director of the department of agriculture shall make (~~an~~
15 ~~annual~~) reports to the governor, as requested, containing an account
16 of all matters pertaining to (~~his or her~~) the department and its
17 administration.

18 **Sec. 402.** RCW 15.85.050 and 1989 c 11 s 2 are each amended to read
19 as follows:

20 When the director determines there is funding to do so, the
21 department shall exercise its authorities, including those provided by
22 chapters 15.64, 15.65, 15.66, and 43.23 RCW, to develop a program for
23 assisting the state's aquaculture industry to market and promote the
24 use of its products.

25 **PART 5**

26 **DEPARTMENT OF FISH AND WILDLIFE**

27 **Sec. 501.** RCW 77.04.120 and 2000 c 107 s 3 are each amended to
28 read as follows:

29 (1) The director shall investigate the habits, supply, and economic
30 use of food fish and shellfish in state and offshore waters.

31 (2) When requested, the director shall (~~make an annual~~) report to
32 the governor on the operation of the department and (~~the~~) statistics
33 (~~of~~) relating to the fishing industry.

1 (3) Subject to RCW 40.07.040 and consistent with RCW 43.01.036, the
2 director shall, when so requested, provide a ~~((comprehensive biennial))~~
3 report of all departmental operations to the ~~((chairs of the committees~~
4 ~~on natural resources of the senate and house of representatives, the~~
5 ~~senate ways and means committee, and the house of representatives~~
6 ~~appropriations committee, including one copy to the staff of each of~~
7 ~~the committees, to reflect the previous fiscal period. The format of~~
8 ~~the report shall be similar to reports issued by the department from~~
9 ~~1964-1970 and the report shall include, but not be limited to,~~
10 ~~descriptions of all department activities including: Revenues~~
11 ~~generated, program costs, capital expenditures, personnel, special~~
12 ~~projects, new and ongoing research, environmental controls, cooperative~~
13 ~~projects, intergovernmental agreements, and outlines of ongoing~~
14 ~~litigation, recent court decisions and orders on major issues with the~~
15 ~~potential for state liability. The report shall describe the status of~~
16 ~~the resource and its recreational, commercial, and tribal utilization.~~
17 ~~The report shall))~~ legislature. The report must include the
18 information contained in the reporting request and be made available to
19 the public.

20 **Sec. 502.** RCW 77.04.150 and 2008 c 294 s 1 are each amended to
21 read as follows:

22 (1) The commission ~~((must))~~ may, if deemed beneficial by the
23 commission, appoint an advisory committee to generally represent the
24 interests of hunters and fishers with disabilities on matters
25 including, but not limited to, special hunts, modified sporting
26 equipment, access to public land, and hunting and fishing
27 opportunities. The advisory committee ~~((is))~~ may not be composed of
28 more than seven members, each being an individual with a disability.
29 The advisory committee members must represent the entire state. ~~((The~~
30 ~~members must be appointed so that each of the six department~~
31 ~~administrative regions, as they existed on January 1, 2007, are~~
32 ~~represented with one resident on the advisory committee. One~~
33 ~~additional member must be appointed at large. The chair of the~~
34 ~~advisory committee must be a member of the advisory committee and shall~~
35 ~~be selected by the members of the advisory committee.))~~

36 (2) For the purposes of this section, an individual with a
37 disability includes but is not limited to:

1 (a) An individual with a permanent disability who is not ambulatory
2 over natural terrain without a prosthesis or assistive device;

3 (b) An individual with a permanent disability who is unable to walk
4 without the use of assistance from a brace, cane, crutch, wheelchair,
5 scooter, walker, or other assistive device;

6 (c) An individual who has a cardiac condition to the extent that
7 the individual's functional limitations are severe;

8 (d) An individual who is restricted by lung disease to the extent
9 that the individual's functional limitations are severe;

10 (e) An individual who is totally blind or visually impaired; or

11 (f) An individual with a permanent disability with upper or lower
12 extremity impairments who does not have the use of one or both upper or
13 lower extremities.

14 (3) The members of the advisory committee are appointed for a four-
15 year term. If a vacancy occurs on the advisory committee prior to the
16 expiration of a term, the commission must appoint a replacement within
17 sixty days to complete the term.

18 (4) The advisory committee must meet at least semiannually, and may
19 meet at other times as requested by a majority of the advisory
20 committee members for any express purpose that directly relates to the
21 duties set forth in subsection (1) of this section. A majority of
22 members currently serving on the advisory committee constitutes a
23 quorum. The department must provide staff support for all official
24 advisory committee meetings.

25 (5) Each member of the advisory committee shall serve without
26 compensation but may be reimbursed for travel expenses as authorized in
27 RCW 43.03.050 and 43.03.060.

28 (6) The members of the advisory committee, or individuals acting on
29 their behalf, are immune from civil liability for official acts
30 performed in the course of their duties.

31 ~~((7) Beginning December 1, 2011, and again at least once every
32 four years, the commission shall present a report to the appropriate
33 legislative committees detailing the effectiveness of the advisory
34 committee including, but not limited to, the participation levels,
35 general interest, quality of advice, and recommendations as to the
36 advisory committee's continuance or modification.))~~

1 **Sec. 503.** RCW 77.12.068 and 2008 c 225 s 4 are each amended to
2 read as follows:

3 The department and the state parks and recreation commission
4 (~~shall~~) may disseminate information about RCW 77.15.740, whale and
5 wildlife viewing guidelines, and other responsible wildlife viewing
6 messages to educate Washington's citizens on how to reduce the risk of
7 disturbing southern resident orca whales. (~~The department and the~~
8 ~~state parks and recreation commission must, at minimum, disseminate~~)
9 This information may be disseminated on (~~their~~) the agency internet
10 sites (~~and~~), through appropriate agency publications, brochures, and
11 through other information sources deemed appropriate by the two
12 agencies. The department and the state parks and recreation commission
13 (~~shall~~) should also attempt to reach the state's boating community by
14 coordinating with appropriate state and nongovernmental entities to
15 provide this information at marinas, boat shows, boat dealers, during
16 boating safety training courses, and in conjunction with vessel
17 registration or licensing.

18 **Sec. 504.** RCW 77.12.184 and 2009 c 333 s 31 are each amended to
19 read as follows:

20 (1) The department shall deposit all moneys received from the
21 following activities into the state wildlife account created in RCW
22 77.12.170:

23 (a) The sale of interpretive, recreational, historical,
24 educational, and informational literature and materials;

25 (b) The sale of advertisements in regulation pamphlets and other
26 appropriate mediums; and

27 (c) Enrollment fees in department-sponsored educational training
28 events.

29 (2) (~~Moneys collected under subsection (1) of this section shall~~
30 ~~be spent primarily for producing regulation booklets for users and for~~
31 ~~the development, production, reprinting, and distribution of~~
32 ~~informational and educational materials. The department may also spend~~
33 ~~these moneys for necessary expenses associated with training~~
34 ~~activities, and other activities as determined by the director.~~

35 (3)) Regulation pamphlets may be subsidized through appropriate
36 advertising, but must be made available free of charge to the users.

1 (~~(4)~~) (3) The director may enter into joint ventures with other
2 agencies and organizations to generate revenue for providing public
3 information and education on wildlife and hunting and fishing rules.

4 **Sec. 505.** RCW 77.12.702 and 2007 c 442 s 2 are each amended to
5 read as follows:

6 (1) The department is directed to develop and implement a rockfish
7 research and stock assessment program. Using funds from the rockfish
8 research account created in subsection (2) of this section, the
9 department must conduct Puget Sound basin and coastal surveys with new
10 and existing technology to estimate the current abundance and future
11 recovery of rockfish populations and other groundfish species. The
12 stock assessment must include an evaluation of the potential for marine
13 fish enhancement. (~~(Beginning December 2008, and every two years~~
14 ~~thereafter,)~~ When so requested, the department shall report to (~~the~~
15 ~~appropriate committees of)~~ the legislature, consistent with RCW
16 43.01.036, on the status of the stock assessment program.

17 (2) The rockfish research account is created in the custody of the
18 state treasurer. All receipts from surcharges assessed on commercial
19 and recreational fishing licenses for the purposes of rockfish research
20 must be deposited into the account. Expenditures from the account may
21 be used only for rockfish research, including stock assessments. Only
22 the director of the department or the director's designee may authorize
23 expenditures from the account. The account is subject to allotment
24 procedures under chapter 43.88 RCW, but an appropriation is not
25 required for expenditures.

26 **Sec. 506.** RCW 77.12.755 and 2003 c 311 s 10 are each amended to
27 read as follows:

28 In coordination with the department of natural resources and lead
29 entity groups, the department must establish a ranked inventory of fish
30 passage barriers on land owned by small forest landowners based on the
31 principle of fixing the worst first within a watershed consistent with
32 the fish passage priorities of the forest and fish report. The
33 department shall first gather and synthesize all available existing
34 information about the locations and impacts of fish passage barriers in
35 Washington. This information must include, but not be limited to, the
36 most recently available limiting factors analysis conducted pursuant to

1 RCW 77.85.060(2), the stock status information contained in the
2 department (~~(of fish and wildlife)~~) salmonid stock inventory (SASSI),
3 the salmon and steelhead habitat inventory and assessment project
4 (SSHIAP), and any comparable science-based assessment when available.
5 The inventory of fish passage barriers must be kept reasonably current
6 (~~(and at a minimum be updated by the beginning of each calendar year)~~)
7 as the director of the department determines funding allows. Nothing
8 in this section grants the department or others additional right of
9 entry onto private property.

10 **Sec. 507.** RCW 77.12.820 and 2009 c 333 s 52 are each amended to
11 read as follows:

12 The eastern Washington pheasant enhancement account is created in
13 the custody of the state treasurer. All receipts under RCW 77.12.810
14 must be deposited in the account. Moneys in the account are subject to
15 legislative appropriation and shall be used for the purpose of funding
16 the eastern Washington pheasant enhancement program. The department
17 may use moneys from the account to improve pheasant habitat or to
18 purchase or produce pheasants. The department must continue to release
19 rooster pheasants in eastern Washington. The eastern Washington
20 pheasant enhancement account funds must not be used for the purchase of
21 land. The account may be used to offer grants to improve pheasant
22 habitat on public or private lands that are open to public hunting.
23 The department may enter partnerships with private landowners,
24 nonprofit corporations, cooperative groups, and federal or state
25 agencies for the purposes of pheasant habitat enhancement in areas that
26 will be available for public hunting. The department shall (~~(submit an~~
27 ~~annual report to the appropriate committees of the legislature by~~
28 ~~December 1st)~~) make information regarding the department's eastern
29 Washington pheasant activities available upon request.

30 **Sec. 508.** RCW 77.60.130 and 2007 c 341 s 59 are each amended to
31 read as follows:

32 (1) The aquatic nuisance species committee is created for the
33 purpose of fostering state, federal, tribal, and private cooperation on
34 aquatic nuisance species issues. The mission of the committee is to
35 minimize the unauthorized or accidental introduction of nonnative
36 aquatic species and give special emphasis to preventing the

1 introduction and spread of aquatic nuisance species. The term "aquatic
2 nuisance species" means a nonnative aquatic plant or animal species
3 that threatens the diversity or abundance of native species, the
4 ecological stability of infested waters, or commercial, agricultural,
5 or recreational activities dependent on such waters.

6 (2) The committee consists of representatives from each of the
7 following state agencies: Department of fish and wildlife, department
8 of ecology, department of agriculture, department of health, department
9 of natural resources, Puget Sound partnership, state patrol, state
10 noxious weed control board, and Washington sea grant program. The
11 committee shall encourage and solicit participation by: Federally
12 recognized tribes of Washington, federal agencies, Washington
13 conservation organizations, environmental groups, and representatives
14 from industries that may either be affected by the introduction of an
15 aquatic nuisance species or that may serve as a pathway for their
16 introduction.

17 (3) The committee has the following duties:

18 (a) Periodically revise the state of Washington aquatic nuisance
19 species management plan, originally published in June 1998;

20 (b) Make recommendations to the legislature on statutory provisions
21 for classifying and regulating aquatic nuisance species;

22 (c) Recommend to the state noxious weed control board that a plant
23 be classified under the process designated by RCW 17.10.080 as an
24 aquatic noxious weed;

25 (d) Coordinate education, research, regulatory authorities,
26 monitoring and control programs, and participate in regional and
27 national efforts regarding aquatic nuisance species; and

28 (e) Consult with representatives from industries and other
29 activities that may serve as a pathway for the introduction of aquatic
30 nuisance species to develop practical strategies that will minimize the
31 risk of new introductions(~~(+and~~

32 ~~(f) Prepare a biennial report to the legislature with the first~~
33 ~~report due by December 1, 2001, making recommendations for better~~
34 ~~accomplishing the purposes of this chapter, and listing the~~
35 ~~accomplishments of this chapter to date)).~~

36 (4) The committee shall accomplish its duties through the authority
37 and cooperation of its member agencies. Implementation of all plans

1 and programs developed by the committee shall be through the member
2 agencies and other cooperating organizations.

3 **Sec. 509.** RCW 77.85.140 and 2009 c 518 s 9 and 2009 c 345 s 8 are
4 each reenacted and amended to read as follows:

5 (1) Habitat project lists shall be submitted to the salmon recovery
6 funding board for funding at least once a year on a schedule
7 established by the board. ~~((The board shall provide the legislature
8 with a list of the proposed projects and a list of the projects funded
9 by October 1st of each year for informational purposes.))~~ Project
10 sponsors who complete salmon habitat projects approved for funding from
11 habitat project lists and have met grant application deadlines will be
12 paid by the salmon recovery funding board within thirty days of project
13 completion.

14 (2) The recreation and conservation office shall track all funds
15 allocated for salmon habitat projects and salmon recovery activities on
16 behalf of the board, including both funds allocated by the board and
17 funds allocated by other state or federal agencies for salmon recovery
18 or water quality improvement.

19 **Sec. 510.** RCW 77.85.220 and 2003 c 391 s 4 are each amended to
20 read as follows:

21 ~~((1))~~ If a limiting factors analysis has been conducted under
22 this chapter for a specific geographic area and that analysis shows
23 insufficient intertidal salmon habitat, the department of fish and
24 wildlife and the county legislative authorities of the affected
25 counties may jointly initiate a salmon intertidal habitat restoration
26 planning process to develop a plan that addresses the intertidal
27 habitat goals contained in the limiting factors analysis. The fish and
28 wildlife commission and the county legislative authorities of the
29 geographic area shall ~~((jointly appoint a task force composed of the
30 following members:~~

31 ~~(a) One representative of the fish and wildlife commission,
32 appointed by the chair of the commission;~~

33 ~~(b) Two representatives of the agricultural industry familiar with
34 agricultural issues in the geographic area, one appointed by an
35 organization active in the geographic area and one appointed by a
36 statewide organization representing the industry;~~

1 ~~(c) Two representatives of environmental interest organizations~~
2 ~~with familiarity and expertise of salmon habitat, one appointed by an~~
3 ~~organization in the geographic area and one appointed by a statewide~~
4 ~~organization representing environmental interests;~~

5 ~~(d) One representative of a diking and drainage district, appointed~~
6 ~~by the individual districts in the geographic area or by an association~~
7 ~~of diking and drainage districts;~~

8 ~~(e) One representative of the lead entity for salmon recovery in~~
9 ~~the geographic area, appointed by the lead entity;~~

10 ~~(f) One representative of each county in the geographic area,~~
11 ~~appointed by the respective county legislative authorities; and~~

12 ~~(g) One representative from the office of the governor.~~

13 ~~(2) Representatives of the United States environmental protection~~
14 ~~agency, the United States natural resources conservation service,~~
15 ~~federal fishery agencies, as appointed by their regional director, and~~
16 ~~tribes with interests in the geographic area shall be invited and~~
17 ~~encouraged to participate as members of the task force.~~

18 ~~(3) The task force shall elect a chair and adopt rules for~~
19 ~~conducting the business of the task force. Staff support for the task~~
20 ~~force shall be provided by the Washington state conservation~~
21 ~~commission.~~

22 ~~(4) The task force shall))~~ work together with interested
23 stakeholders to:

24 ~~((a))~~ (1) Review and analyze the limiting factors analysis for
25 the geographic area;

26 ~~((b))~~ (2) Initiate and oversee intertidal salmon habitat studies
27 for enhancement of the intertidal area as provided in RCW 77.85.230;

28 ~~((c))~~ (3) Review and analyze the completed assessments listed in
29 RCW 77.85.230;

30 ~~((d))~~ (4) Develop and draft an overall plan that addresses
31 identified intertidal salmon habitat goals that has public support; and

32 ~~((e))~~ (5) Identify appropriate demonstration projects and early
33 implementation projects that are of high priority and should commence
34 immediately within the geographic area.

35 ~~((5) The task force may request briefings as needed on legal~~
36 ~~issues that may need to be considered when developing or implementing~~
37 ~~various plan options.~~

1 ~~(6) Members of the task force shall be reimbursed by the~~
2 ~~conservation commission for travel expenses as provided in RCW~~
3 ~~43.03.050 and 43.03.060.~~

4 ~~(7) The task force shall provide annual reports that provide an~~
5 ~~update on its activities to the fish and wildlife commission, to the~~
6 ~~involved county legislative authorities, and to the lead entity formed~~
7 ~~under this chapter.)~~

8 **Sec. 511.** RCW 77.85.230 and 2009 c 333 s 24 are each amended to
9 read as follows:

10 ~~(1) ((In consultation with the appropriate task force formed under~~
11 ~~RCW 77.85.220,))~~ The conservation commission may contract with
12 universities, private consultants, nonprofit groups, or other entities
13 to assist it in developing a plan incorporating the following elements:

14 (a) An inventory of existing tide gates located on streams in the
15 county. The inventory shall include location, age, type, and
16 maintenance history of the tide gates and other factors as determined
17 by the appropriate task force in consultation with the county and
18 diking and drainage districts;

19 (b) An assessment of the role of tide gates located on streams in
20 the county; the role of intertidal fish habitat for various life stages
21 of salmon; the quantity and characterization of intertidal fish habitat
22 currently accessible to fish; the quantity and characterization of the
23 present intertidal fish habitat created at the time the dikes and
24 outlets were constructed; the quantity of potential intertidal fish
25 habitat on public lands and alternatives to enhance this habitat; the
26 effects of saltwater intrusion on agricultural land, including the
27 effects of backfeeding of saltwater through the underground drainage
28 system; the role of tide gates in drainage systems, including relieving
29 excess water from saturated soil and providing reservoir functions
30 between tides; the effect of saturated soils on production of crops;
31 the characteristics of properly functioning intertidal fish habitat; a
32 map of agricultural lands designated by the county as having long-term
33 commercial significance and the effect of that designation; and the
34 economic impacts to existing land uses for various alternatives for
35 tide gate alteration; and

36 (c) A long-term plan for intertidal salmon habitat enhancement to
37 meet the goals of salmon recovery and protection of agricultural lands.

1 The proposal shall consider all other means to achieve salmon recovery
2 without converting farmland. The proposal shall include methods to
3 increase fish passage and otherwise enhance intertidal habitat on
4 public lands pursuant to subsection (2) of this section, voluntary
5 methods to increase fish passage on private lands, a priority list of
6 intertidal salmon enhancement projects, and recommendations for funding
7 of high priority projects. The task force also may propose pilot
8 projects that will be designed to test and measure the success of
9 various proposed strategies.

10 (2) In conjunction with other public landowners (~~and the~~
11 ~~appropriate task force formed under RCW 77.85.220~~), the department
12 shall develop an initial salmon intertidal habitat enhancement plan for
13 public lands in the county. The initial plan shall include a list of
14 public properties in the intertidal zone that could be enhanced for
15 salmon, a description of how those properties could be altered to
16 support salmon, a description of costs and sources of funds to enhance
17 the property, and a strategy and schedule for prioritizing the
18 enhancement of public lands for intertidal salmon habitat. (~~This~~
19 ~~initial plan shall be submitted to the appropriate task force at least~~
20 ~~six months before the deadline established in subsection (3) of this~~
21 ~~section.~~)

22 (3) (~~The final intertidal salmon enhancement plan shall be~~
23 ~~completed within two years from the date the task force is formed under~~
24 ~~RCW 77.85.220 and funding has been secured.~~) A final plan shall be
25 submitted (~~by the appropriate task force~~) to the lead entity for the
26 geographic area established under this chapter.

27 **Sec. 512.** RCW 77.95.020 and 1995 1st sp.s. c 2 s 34 are each
28 amended to read as follows:

29 (1) The commission shall develop long-term regional policy
30 statements regarding the salmon fishery resources before December 1,
31 1985. The commission shall consider the following in formulating and
32 updating regional policy statements:

33 (a) Existing resource needs;

34 (b) Potential for creation of new resources;

35 (c) Successful existing programs, both within and outside the
36 state;

37 (d) Balanced utilization of natural and hatchery production;

- 1 (e) Desires of the fishing interest;
 - 2 (f) Need for additional data or research;
 - 3 (g) Federal court orders; and
 - 4 (h) Salmon advisory council recommendations.
- 5 (2) The commission shall review and update each policy statement
6 (~~at least once each year~~) as needed.

7 **Sec. 513.** RCW 77.95.190 and 2010 1st sp.s. c 7 s 84 are each
8 amended to read as follows:

9 The department (~~shall~~) may field test coho and chinook salmon
10 remote site incubators. The purpose of field testing efforts shall be
11 to gather conclusive scientific data on the effectiveness of coho and
12 chinook remote site incubators.

13 **Sec. 514.** RCW 77.95.200 and 2009 c 333 s 29 are each amended to
14 read as follows:

15 (1) The department (~~shall~~) may develop and implement a program
16 utilizing remote site incubators in Washington (~~state~~). If used, the
17 program (~~shall~~) must identify sites in tributaries that are suitable
18 for reestablishing self-sustaining, locally adapted populations of
19 coho, chum, or chinook salmon. The initial selection of sites shall be
20 updated annually.

21 (2) The department may only approve a remote site incubator project
22 if the department deems it is consistent with the conservation of wild
23 salmon and trout. The department shall only utilize appropriate
24 salmonid eggs in remote site incubators, and may acquire eggs by gift
25 or purchase.

26 (3) The department shall depend chiefly upon volunteer efforts to
27 implement (~~the~~) a remote site incubator program through volunteer
28 cooperative projects and the regional fisheries enhancement groups.
29 The department may prioritize remote site incubator projects within
30 regional enhancement areas.

31 (4) The department may purchase remote site incubators and may use
32 agency employees to construct remote site incubators.

33 (5) The department (~~shall~~) may investigate the use of the remote
34 site incubator technology for the production of warm water fish.

35 (6) (~~Annual~~) Reports on the progress of the program shall be
36 provided to the fish and wildlife commission as requested.

1 **Sec. 515.** RCW 77.95.230 and 1989 c 336 s 2 are each amended to
2 read as follows:

3 The director shall determine the cost of operating all state-funded
4 salmon production facilities at full capacity and shall provide this
5 information with the department's biennial budget request if so
6 requested by the office of financial management.

7 **Sec. 516.** RCW 77.95.310 and 2009 c 333 s 30 are each amended to
8 read as follows:

9 (1) If requested by the commission, the department shall maintain
10 a report identifying total salmon and steelhead harvest. This report
11 shall include the final commercial harvests and recreational harvests.
12 At a minimum, the report shall clearly identify:

13 (a) The total treaty tribal and nontribal harvests by species and
14 by management unit;

15 (b) Where and why the nontribal harvest does not meet the full
16 allocation allowed under *United States v. Washington*, 384 F. Supp. 312
17 (1974) (Boldt I) including a summary of the key policies within the
18 management plan that result in a less than full nontribal allocation;
19 and

20 (c) The location and quantity of salmon and steelhead harvested
21 under the wastage provisions of *United States v. Washington*, 384 F.
22 Supp. 312 (1974).

23 (2) Upon request, the department shall present the report required
24 to be maintained under this section to the appropriate committees of
25 the legislature.

26 **Sec. 517.** RCW 77.100.050 and 2001 c 337 s 3 are each amended to
27 read as follows:

28 (1) The department shall, when deemed needed by the department:

29 (a) Encourage and support the establishment of cooperative
30 agreements for the development and operation of cooperative food fish,
31 shellfish, game fish, game bird, game animal, and nongame wildlife
32 projects, and projects which provide an opportunity for volunteer
33 groups to become involved in resource and habitat-oriented activities.
34 All cooperative projects shall be fairly considered in the approval of
35 cooperative agreements;

1 (b) Identify regions and species or activities that would be
2 particularly suitable for cooperative projects providing benefits
3 compatible with department goals;

4 (c) Determine the availability of rearing space at operating
5 facilities or of net pens, egg boxes, portable rearing containers,
6 incubators, and any other rearing facilities for use in cooperative
7 projects, and allocate them to volunteer groups as fairly as possible;

8 (d) Make viable eggs available for replenishing fish runs, and
9 salmon carcasses for nutrient enhancement of streams. If a regional
10 fisheries enhancement group, lead entity, volunteer cooperative group,
11 federally approved tribe in Washington, or a governmental hatchery in
12 Washington, Oregon, or Idaho requests the department for viable eggs,
13 the department must include the request within the brood stock document
14 prepared for review by the regional offices. The eggs shall be
15 distributed in accordance with the priority established in RCW
16 77.95.210 if they are available. A request for viable eggs may only be
17 denied if the eggs would not be useful for propagation or salmon
18 recovery purposes, as determined under RCW 77.95.210;

19 (e) Exempt volunteer groups from payment of fees to the department
20 for activities related to the project;

21 (f) Publicize the cooperative program;

22 (g) Not substitute a new cooperative project for any part of the
23 department's program unless mutually agreeable to the department and
24 volunteer group;

25 (h) Not approve agreements that are incompatible with legally
26 existing land, water, or property rights.

27 (2) The department may, when requested, provide to volunteer groups
28 its available professional expertise and assist the volunteer group to
29 evaluate its project. The department must conduct annual workshops in
30 each administrative region of the department that has fish stocks
31 listed as threatened or endangered under the federal endangered species
32 act, 16 U.S.C. Sec. 1531 et seq., in order to assist volunteer groups
33 with egg rearing, share information on successful salmon recovery
34 projects accomplished by volunteers within the state, and provide basic
35 training on monitoring efforts that can be accomplished by volunteers
36 in order to help determine if their efforts are successful.

1 (b) Assuming the lead state role for developing formal comments on
2 federal forest management plans that may have an impact on the health
3 of forests in Washington;

4 (c) Pursuing in an expedited manner any available and appropriate
5 cooperative agreements, including cooperating agency status
6 designation, with the United States forest service and the United
7 States bureau of land management that allow for meaningful
8 participation in any federal land management plans that could affect
9 the department's strategic plan for healthy forests and effective fire
10 prevention and suppression, including the pursuit of any options
11 available for giving effect to the cooperative philosophy contained
12 within the national environmental policy act of 1969 (42 U.S.C. Sec.
13 4331); and

14 (d) Pursuing agreements with federal agencies in the service of
15 forest biomass energy partnerships and cooperatives authorized under
16 RCW 43.30.835 through 43.30.840.

17 (3) When requested and consistent with RCW 43.01.036, the
18 commissioner of public lands shall report to the ~~((chairs of the~~
19 ~~appropriate standing committees of the))~~ legislature ~~((every year))~~ on
20 progress under this section, including, if requested, the
21 identification~~((, if deemed appropriate by the commissioner,))~~ of any
22 needed statutory changes, policy issues, or funding needs.

23 **Sec. 603.** RCW 79.10.010 and 2003 c 334 s 433 are each amended to
24 read as follows:

25 (1) It shall be the duty of the department to report, and
26 recommend, ~~((to each session of the legislature))~~ as necessary, any
27 changes in the law relating to the methods of handling the public lands
28 of the state that the department may deem advisable.

29 (2) Upon the request of the legislature, the governor, or the
30 board, the department shall provide a comprehensive ~~((biennial))~~ report
31 to reflect the previous fiscal period. The request for the report
32 ~~((shall include, but not))~~ may specify the inclusion of, but does not
33 have to be limited to, descriptions of all department activities
34 including: Revenues generated, program costs, capital expenditures,
35 personnel, special projects, new and ongoing research, environmental
36 controls, cooperative projects, intergovernmental agreements, the
37 adopted sustainable harvest compared to the sales program, and outlines

1 of ongoing litigation, recent court decisions, and orders on major
2 issues with the potential for state liability. The report shall
3 describe the status of the resources managed and the recreational and
4 commercial utilization. The report must be delivered to the
5 (~~appropriate committees of the~~) legislature consistent with RCW
6 43.01.036 and made available to the public.

7 (3) The department shall provide annual reports to the respective
8 trust beneficiaries, including each county. The report shall include,
9 but not be limited to, the following: Acres sold, acres harvested,
10 volume from those acres, acres planted, number of stems per acre, acres
11 precommercially thinned, acres commercially thinned, acres partially
12 cut, acres clear cut, age of final rotation for acres clear cut, and
13 the total number of acres off base for harvest and an explanation of
14 why those acres are off base for harvest.

15 **Sec. 604.** RCW 79.02.260 and 2003 c 334 s 429 are each amended to
16 read as follows:

17 (1) The department shall keep a (~~fee book~~) record, in a manner
18 determined to be effective and efficient by the department, in which
19 shall be entered all fees received, with the date paid and the name of
20 the person paying the (~~same~~) fee, and the nature of the services
21 rendered for which the fee is charged(~~(, which book shall)~~). The
22 record must be verified monthly by an affidavit entered (~~therein~~)
23 into the record.

24 (2) All fees collected by the department shall be paid into the
25 state treasury, as applicable, to the resource management cost account
26 created in RCW 79.64.020, the forest development account created in RCW
27 79.64.100, or the agricultural college trust management account fund as
28 established under RCW 79.64.090, and the receipt of the state treasurer
29 taken and retained in the department's Olympia office as a voucher.

30 **Sec. 605.** RCW 79.17.010 and 2009 c 497 s 6024 are each amended to
31 read as follows:

32 (1) The department, with the approval of the board, may exchange
33 any state land and any timber thereon for any land of equal value in
34 order to:

- 35 (a) Facilitate the marketing of forest products of state lands;
36 (b) Consolidate and block-up state lands;

1 (c) Acquire lands having commercial recreational leasing potential;

2 (d) Acquire county-owned lands;

3 (e) Acquire urban property which has greater income potential or
4 which could be more efficiently managed by the department in exchange
5 for state urban lands as defined in RCW 79.19.100; or

6 (f) Acquire any other lands when such exchange is determined by the
7 board to be in the best interest of the trust for which the state land
8 is held.

9 (2) Land exchanged under this section shall not be used to reduce
10 the publicly owned forest land base.

11 (3) The board shall determine that each land exchange is in the
12 best interest of the trust for which the land is held prior to
13 authorizing the land exchange.

14 (4) (~~During the biennium ending June 30, 2011,~~) For the purposes
15 of maintaining working farm and forest landscapes or acquiring natural
16 resource lands at risk of development, the department, with approval of
17 the board of natural resources, may exchange any state land and any
18 timber thereon for any land and proceeds of equal value, when it can be
19 demonstrated that the trust fiduciary obligations can be better
20 fulfilled after an exchange is completed. Proceeds may be in the form
21 of cash or services in order to achieve the purposes established in
22 this section. Any cash received as part of an exchange transaction
23 shall be deposited in the resource management cost account to pay for
24 administrative expenses incurred in carrying out an exchange
25 transaction. These administrative expenses include road maintenance
26 and abandonment expenses. The amount of proceeds received from the
27 exchange partner may not exceed five percent of the total value of the
28 exchange. The receipt of proceeds shall not change the character of
29 the transaction from an exchange to a sale.

30 (5) Prior to executing an exchange under this section, and in
31 addition to the public notice requirements set forth in RCW 79.17.050,
32 the department shall consult with legislative members, other state and
33 federal agencies, local governments, tribes, local stakeholders,
34 conservation groups, and any other interested parties to identify and
35 address cultural resource issues and the potential of the state lands
36 proposed for exchange to be used for open space, park, school, or
37 critical habitat purposes.

1 **Sec. 606.** RCW 79.17.020 and 2009 c 497 s 6025 are each amended to
2 read as follows:

3 (1) The board of county commissioners of any county and/or the
4 mayor and city council or city commission of any city or town and/or
5 the board shall have authority to exchange, each with the other, or
6 with the federal forest service, the federal government or any proper
7 agency thereof and/or with any private landowner, county land of any
8 character, land owned by municipalities of any character, and state
9 forest land owned by the state under the jurisdiction of the
10 department, for real property of equal value for the purpose of
11 consolidating and blocking up the respective land holdings of any
12 county, municipality, the federal government, or the state of
13 Washington or for the purpose of obtaining lands having commercial
14 recreational leasing potential.

15 (2) (~~During the biennium ending June 30, 2011,~~) For the purposes
16 of maintaining working farm and forest landscapes or acquiring natural
17 resource lands at risk of development, the department, with approval of
18 the board of natural resources, may exchange any state land and any
19 timber thereon for any land and proceeds of equal value, when it can be
20 demonstrated that the trust fiduciary obligations can be better
21 fulfilled after an exchange is completed. Proceeds may be in the form
22 of cash or services in order to achieve the purposes established in
23 this section. Any cash received as part of an exchange transaction
24 shall be deposited in the forest development account to pay for
25 administrative expenses incurred in carrying out an exchange
26 transaction. The amount of proceeds received from the exchange partner
27 may not exceed five percent of the total value of the exchange. The
28 receipt of proceeds shall not change the character of the transaction
29 from an exchange to a sale.

30 (3) Prior to executing an exchange under this section, and in
31 addition to the public notice requirements set forth in RCW 79.17.050,
32 the department shall consult with legislative members, other state and
33 federal agencies, local governments, tribes, local stakeholders,
34 conservation groups, and any other interested parties to identify and
35 address cultural resource issues, and the potential of the state lands
36 proposed for exchange to be used for open space, park, school, or
37 critical habitat purposes.

1 **Sec. 607.** RCW 79.19.100 and 2003 c 334 s 441 are each amended to
2 read as follows:

3 (1) The purpose of this section is to foster cooperative planning
4 among the state, the department, and local governments as to state-
5 owned lands under the department's jurisdiction situated in urban
6 areas.

7 ~~((At least once a year,))~~ (2) Prior to finalizing the department's
8 urban land leasing action plan, the department and applicable local
9 governments shall meet on a schedule agreed upon between the department
10 and the local government to review state and local plans and to
11 coordinate planning in areas where urban lands are located. The
12 department and local governments may enter into formal agreements for
13 the purpose of planning the appropriate development of these state-
14 owned urban lands.

15 (3) The department shall contact those local governments which have
16 planning, zoning, and land-use regulation authority over areas where
17 urban lands under its jurisdiction are located so as to facilitate
18 these annual or other meetings.

19 (4) "Urban lands" as used in this section means those areas which
20 within ten years are expected to be intensively used for locations of
21 buildings or structures, and usually have urban governmental services.

22 (5) "Local government" as used in this section means counties,
23 cities, and towns having planning and land-use regulation authority.

24 **Sec. 608.** RCW 79.125.040 and 2005 c 155 s 503 are each amended to
25 read as follows:

26 The department shall prepare plats showing all tidelands and
27 shorelands, surveyed, platted, and appraised by it in the respective
28 counties, on which shall be marked the location of all tidelands and
29 shorelands, with reference to the lines of the United States survey of
30 the abutting upland, and shall prepare a record of its proceedings,
31 including a list of the tidelands and shorelands surveyed, platted, or
32 replatted, and appraised by it and its appraisal of the tidelands and
33 shorelands~~((, which)).~~ Plats and plat books ~~((shall be in triplicate~~
34 ~~and the department shall file one copy of the plats and records in the~~
35 ~~department's Olympia office, and file one copy in the office of the~~
36 ~~county auditor of the county where the lands platted, or replatted, and~~
37 ~~appraised are situated, and file one copy in the office of the city~~

1 ~~engineer of the city in which, or within two miles of which, the lands~~
2 ~~platted, or replatted, are situated))~~ must be maintained by the
3 department and provided to affected local governments as appropriate or
4 requested.

5 **Sec. 609.** RCW 79.125.710 and 2005 c 155 s 517 are each amended to
6 read as follows:

7 Whenever application is made to the department by any incorporated
8 city or town or metropolitan park district for the use of any state-
9 owned tidelands or shorelands within the corporate limits of the city
10 or town or metropolitan park district for municipal park and/or
11 playground purposes, the department shall ~~((cause the application to be~~
12 ~~entered))~~ record the application in the department's records ~~((of its~~
13 ~~office,))~~ and ~~((shall then))~~ must forward the application to the office
14 of the governor~~((, who shall appoint a committee of five representative~~
15 ~~citizens of the city or town, in addition to the commissioner and the~~
16 ~~director of ecology, both of whom shall be ex officio members of the~~
17 ~~committee, to investigate the lands and determine whether they))~~ for
18 the opportunity to determine whether the lands are suitable and needed
19 for park or playground purposes~~((; and, if they so find))~~. If the
20 lands are found to be suitable and needed, or the governor declines to
21 comment, the commissioner shall certify to the governor that the
22 property ~~((shall))~~ is to be deeded, ~~((when))~~ in accordance with RCW
23 79.125.200 and 79.125.700, to the city or town or metropolitan park
24 district and the governor shall then execute a deed in the name of the
25 state of Washington, attested by the secretary of state, conveying the
26 use of the lands to the city or town or metropolitan park district for
27 park or playground purposes for so long as it shall continue to hold,
28 use, and maintain the lands for park or playground purposes.

29 **Sec. 610.** RCW 79.140.020 and 2005 c 155 s 802 are each amended to
30 read as follows:

31 The department shall ~~((print))~~ generate a list of valuable
32 materials contained within or upon state-owned aquatic lands, giving
33 appraised value, character of the land, and ~~((such))~~ other information
34 as may be of interest to prospective buyers. The lists must be
35 ~~((issued))~~ generated at least four weeks prior to the date of any sale.
36 The department shall ~~((retain for free distribution in its office in~~

1 ~~Olympia and the regional offices sufficient copies of the lists, to be~~
2 ~~kept in a conspicuous place or receptacle on the counter of the general~~
3 ~~and regional office of the department, and, when requested, shall mail~~
4 ~~copies of the list as issued to any applicant)) make the list available~~
5 ~~in its public offices and, if deemed beneficial by the department, on~~
6 ~~the department's internet web page.~~

7 **Sec. 611.** RCW 79.105.410 and 2005 c 155 s 163 are each amended to
8 read as follows:

9 (1) The department is authorized to accept gifts of aquatic land
10 within the state, including tidelands, shorelands, harbor areas, and
11 the beds of navigable waters, which shall become part of the state-
12 owned aquatic land base.

13 (2) Consistent with RCW 79.105.030, the department must develop
14 procedures and criteria that state the manner in which gifts of aquatic
15 land, received after July 27, 2003, may occur.

16 (3) Except as otherwise provided in this section, no gift of
17 aquatic land may be accepted until: (a) An appraisal of the value of
18 the land has been prepared; (b) an environmental site assessment has
19 been conducted; and (c) the title property report has been examined and
20 approved by the attorney general of the state. The results of the
21 appraisal, the site assessment, and the examination of the title
22 property report must be submitted to the board before the department
23 may accept a gift of aquatic land.

24 ((+2)) (4) On a case-by-case basis, the department may accept a
25 gift of aquatic lands without the necessity of completing the
26 requirements of subsection (3) of this section. This authority is
27 limited to donations the department determines to be low-risk and may
28 be utilized if the department can identify processes to protect the
29 state's interest that are functionally equivalent to the requirements
30 of subsection (3) of this section.

31 (5) The authorization to accept gifts of aquatic land within the
32 state extends to aquatic land accepted as gifts prior to July 27, 2003.

33 NEW SECTION. **Sec. 612.** The following acts or parts of acts are
34 each repealed:

35 (1) RCW 43.30.345 (Federal funds for management and protection of

1 forests, forest and range lands--Disbursement of funds) and 2003 c 334
2 s 203, 1988 c 128 s 14, & 1957 c 78 s 2;

3 (2) RCW 43.30.360 (Clarke-McNary fund) and 2002 c 371 s 908 & 1986
4 c 100 s 46;

5 (3) RCW 43.30.370 (Cooperative farm forestry funds) and 1986 c 100
6 s 47; and

7 (4) RCW 79.125.610 (List of state-owned tidelands and shorelands
8 permitted to be sold) and 2005 c 155 s 113 & 1982 1st ex.s. c 21 s 24.

9 **PART 7**

10 **THE PUGET SOUND PARTNERSHIP**

11 **Sec. 701.** RCW 90.71.010 and 2007 c 341 s 2 are each amended to
12 read as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

15 (1) "Action agenda" means the comprehensive schedule of projects,
16 programs, and other activities designed to achieve a healthy Puget
17 Sound ecosystem that (~~is authorized and further described in RCW~~
18 ~~90.71.300 and 90.71.310~~) was developed by the Puget Sound partnership,
19 approved by the leadership council, and delivered to the legislature in
20 December 2008, along with any subsequent updates.

21 (2) "Action area" means the geographic areas delineated as provided
22 in RCW 90.71.260.

23 (3) "Benchmarks" means measurable interim milestones or
24 achievements established to demonstrate progress towards a goal,
25 objective, or outcome.

26 (4) "Board" means the ecosystem coordination board.

27 (5) "Council" means the leadership council.

28 (6) "Environmental indicator" means a physical, biological, or
29 chemical measurement, statistic, or value that provides a proximate
30 gauge, or evidence of, the state or condition of Puget Sound.

31 (7) "Implementation strategies" means the strategies incorporated
32 on a biennial basis in the action agenda (~~developed under RCW~~
33 ~~90.71.310~~).

34 (8) "Nearshore" means the area beginning at the crest of coastal
35 bluffs and extending seaward through the marine photics zone, and to

1 the head of tide in coastal rivers and streams. "Nearshore" also means
2 both shoreline and estuaries.

3 (9) "Panel" means the Puget Sound science panel.

4 (10) "Partnership" means the Puget Sound partnership.

5 (11) "Puget Sound" means Puget Sound and related inland marine
6 waters, including all salt waters of the state of Washington inside the
7 international boundary line between Washington and British Columbia,
8 and lying east of the junction of the Pacific Ocean and the Strait of
9 Juan de Fuca, and the rivers and streams draining to Puget Sound as
10 mapped by water resource inventory areas 1 through 19 in WAC
11 173-500-040 as it exists on July 1, 2007.

12 ~~(12) ("Puget Sound partner" means an entity that has been~~
13 ~~recognized by the partnership, as provided in RCW 90.71.340, as having~~
14 ~~consistently achieved outstanding progress in implementing the 2020~~
15 ~~action agenda.~~

16 ~~(13))~~ "Watershed groups" means all groups sponsoring or
17 administering watershed programs, including but not limited to local
18 governments, private sector entities, watershed planning units,
19 watershed councils, shellfish protection areas, regional fishery
20 enhancement groups, marine ~~((resource{s}))~~ resources committees
21 including those working with the Northwest straits commission,
22 nearshore groups, and watershed lead entities.

23 ~~((14))~~ (13) "Watershed programs" means and includes all
24 watershed-level plans, programs, projects, and activities that relate
25 to or may contribute to the protection or restoration of Puget Sound
26 waters. Such programs include jurisdiction-wide programs regardless of
27 whether more than one watershed is addressed.

28 **Sec. 702.** RCW 90.71.230 and 2007 c 341 s 5 are each amended to
29 read as follows:

30 (1) The leadership council shall have the power and duty to:

31 (a) Provide leadership and have responsibility for the functions of
32 the partnership, including adopting, revising, and guiding the
33 implementation of the action agenda, allocating funds for Puget Sound
34 recovery, providing progress and other reports, setting strategic
35 priorities and benchmarks, adopting and applying accountability
36 measures, and making appointments to the board and panel;

37 (b) Adopt rules, in accordance with chapter 34.05 RCW;

1 (c) Create subcommittees and advisory committees as appropriate to
2 assist the council;

3 (d) Enter into, amend, and terminate contracts with individuals,
4 corporations, or research institutions to effectuate the purposes of
5 this chapter;

6 (e) Make grants to governmental and nongovernmental entities to
7 effectuate the purposes of this chapter;

8 (f) Receive such gifts, grants, and endowments, in trust or
9 otherwise, for the use and benefit of the partnership to effectuate the
10 purposes of this chapter;

11 (g) Promote extensive public awareness, education, and
12 participation in Puget Sound protection and recovery;

13 (h) Work collaboratively with the Hood Canal coordinating council
14 established in chapter 90.88 RCW on Hood Canal-specific issues;

15 (i) Maintain complete and consolidated financial information to
16 ensure that all funds received and expended to implement the action
17 agenda have been accounted for; and

18 (j) ~~((Such))~~ Perform other powers and duties as are necessary and
19 appropriate to carry out the provisions of this chapter.

20 (2) The council may delegate functions to the chair and to the
21 executive director, however the council may not delegate its decisional
22 authority regarding ~~((developing or))~~ amending the action agenda.

23 (3) The council shall work closely with existing organizations and
24 all levels of government to ensure that the action agenda and its
25 implementation are scientifically sound, efficient, and achieve
26 necessary results to accomplish recovery of Puget Sound to health by
27 2020.

28 (4) The council shall support, engage, and foster collaboration
29 among watershed groups to assist in the recovery of Puget Sound.

30 (5) When working with federally recognized Indian tribes to
31 ~~((develop and))~~ implement the action agenda, the council shall conform
32 to the procedures and standards required in a government-to-
33 governmental relationship with tribes under the 1989 Centennial Accord
34 between the state of Washington and the sovereign tribal governments in
35 the state of Washington.

36 (6) Members of the council shall be compensated in accordance with
37 RCW 43.03.220 and be reimbursed for travel expenses in accordance with
38 RCW 43.03.050 and 43.03.060.

1 **Sec. 703.** RCW 90.71.250 and 2007 c 341 s 7 are each amended to
2 read as follows:

3 (1) The (~~council shall convene the~~) ecosystem coordination board
4 (~~not later than October 1, 2007.~~

5 ~~(2) The board~~) shall consist of the following:

6 (a) One representative from the geographic area of each of the
7 action areas specified in RCW 90.71.260, appointed by the council. The
8 council shall solicit nominations from, at a minimum, counties, cities,
9 and watershed groups;

10 (b) Two members representing general business interests, one of
11 whom shall represent in-state general small business interests, both
12 appointed by the council;

13 (c) Two members representing environmental interests, appointed by
14 the council;

15 (d) Three representatives of tribal governments located in Puget
16 Sound, invited by the governor to participate as members of the board;

17 (e) One representative each from counties, cities, and port
18 districts, appointed by the council from nominations submitted by
19 statewide associations representing such local governments;

20 (f) Three representatives of state agencies with environmental
21 management responsibilities in Puget Sound, representing the interests
22 of all state agencies, one of whom shall be the commissioner of public
23 lands or his or her designee; and

24 (g) Three representatives of federal agencies with environmental
25 management responsibilities in Puget Sound, representing the interests
26 of all federal agencies and invited by the governor to participate as
27 members of the board.

28 ~~((3))~~ (2) The president of the senate shall appoint two senators,
29 one from each major caucus, as legislative liaisons to the board. The
30 speaker of the house of representatives shall appoint two
31 representatives, one from each major caucus, as legislative liaisons to
32 the board.

33 ~~((4))~~ (3) The board shall elect one of its members as chair, and
34 one of its members as vice-chair.

35 ~~((5))~~ (4) The board shall advise and assist the council in
36 carrying out its responsibilities in implementing this chapter,
37 including (~~development and~~):

1 (a) ~~The implementation of the action agenda((. The board's duties~~
2 ~~include:~~

3 ~~(a) Assisting cities, counties, ports, tribes, watershed groups,~~
4 ~~and other governmental and private organizations in the compilation of~~
5 ~~local programs for consideration for inclusion in the action agenda as~~
6 ~~provided in RCW 90.71.260));~~

7 ~~((Upon request of the council, reviewing and making~~
8 ~~recommendations regarding activities, projects, and programs proposed~~
9 ~~for inclusion in the action agenda, including assessing existing~~
10 ~~ecosystem scale management, restoration and protection plan elements,~~
11 ~~activities, projects, and programs for inclusion in the action agenda;~~

12 ~~(e)) Seeking public and private funding and the commitment of~~
13 ~~other resources for ((plan)) action agenda implementation;~~

14 ~~((d)) (c) Assisting the council in conducting public education~~
15 ~~activities regarding threats to Puget Sound and about local~~
16 ~~implementation strategies to support the action agenda; and~~

17 ~~((e)) (d) Recruiting the active involvement of and encouraging~~
18 ~~the collaboration and communication among governmental and~~
19 ~~nongovernmental entities, the private sector, and citizens working to~~
20 ~~achieve the recovery of Puget Sound.~~

21 ~~((6)) (5) Members of the board, except for federal and state~~
22 ~~employees, shall be reimbursed for travel expenses in accordance with~~
23 ~~RCW 43.03.050 and 43.03.060.~~

24 **Sec. 704.** RCW 90.71.260 and 2007 c 341 s 8 are each amended to
25 read as follows:

26 (1) The partnership shall ~~((develop))~~ pursue the implementation of
27 the action agenda in part upon the foundation of existing watershed
28 programs that address or contribute to the health of Puget Sound. To
29 ensure full consideration of these watershed programs ~~((in a timely~~
30 ~~manner to meet the required date for adoption of the action agenda)),~~
31 the partnership shall rely largely upon local watershed groups, tribes,
32 cities, counties, special purpose districts, and the private sector,
33 who are engaged in developing and implementing these programs.

34 (2) The partnership shall organize ~~((this work))~~ the implementation
35 of the action agenda by working with these groups in the following
36 geographic action areas of Puget Sound, which collectively encompass

1 all of the Puget Sound basin and include the areas draining to the
2 marine waters in these action areas:

- 3 (a) Strait of Juan de Fuca;
- 4 (b) The San Juan Islands;
- 5 (c) Whidbey Island;
- 6 (d) North central Puget Sound;
- 7 (e) South central Puget Sound;
- 8 (f) South Puget Sound; and
- 9 (g) Hood Canal.

10 (3) The council shall define the geographic delineations of these
11 action areas based upon the common issues and interests of the entities
12 in these action areas, and upon the characteristics of the Sound's
13 physical structure, and the water flows into and within the Sound.

14 ~~((The executive director, working with the board
15 representatives from each action area, shall invite appropriate tribes,
16 local governments, and watershed groups to convene for the purpose of
17 compiling the existing watershed programs relating or contributing to
18 the health of Puget Sound. The participating groups should work to
19 identify the applicable local plan elements, projects, and programs,
20 together with estimated budget, timelines, and proposed funding
21 sources, that are suitable for adoption into the action agenda. This
22 may include a prioritization among plan elements, projects, and
23 programs.~~

24 ~~(+5))~~ The partnership may provide assistance to watershed groups in
25 those action areas that are developing and implementing programs
26 included within the action agenda, and to improve coordination among
27 the groups to improve and accelerate the implementation of the action
28 agenda.

29 ~~((+6))~~ (5) The executive director, working with the board, shall
30 also compile and assess ecosystem scale management, restoration, and
31 protection plans for the Puget Sound basin.

32 (a) At a minimum, the compilation shall include the Puget Sound
33 nearshore estuary project, clean-up plans for contaminated aquatic
34 lands and shorelands, aquatic land management plans, state resource
35 management plans, habitat conservation plans, and recovery plans for
36 salmon, orca, and other species in Puget Sound that are listed under
37 the federal endangered species act.

1 (b) The board should work to identify and assess applicable
2 ecosystem scale plan elements, projects, and programs, together with
3 estimated budget, timelines, and proposed funding sources(~~(, that are~~
4 ~~suitable for adoption into the action agenda)~~)).

5 (c) When the board identifies conflicts or disputes among ecosystem
6 scale projects or programs, the board may convene the agency managers
7 in an attempt to reconcile the conflicts with the objective of
8 advancing the protection and recovery of Puget Sound.

9 (d) If it determines that doing so will increase the likelihood of
10 restoring Puget Sound by 2020, the partnership may explore the utility
11 of federal assurances under the endangered species act, 16 U.S.C. Sec.
12 1531 et seq., and shall confer with the federal services administering
13 that act.

14 ~~((7) The executive director shall integrate and present the~~
15 ~~proposed elements from watershed programs and ecosystem level plans to~~
16 ~~the council for consideration for inclusion in the action agenda not~~
17 ~~later than July 1, 2008.))~~

18 **Sec. 705.** RCW 90.71.270 and 2007 c 341 s 9 are each amended to
19 read as follows:

20 (1) The council shall appoint a nine-member Puget Sound science
21 panel to provide independent, nonrepresentational scientific advice to
22 the council (~~(and expertise in identifying environmental indicators and~~
23 ~~benchmarks for incorporation into the action agenda)~~)).

24 (2) In establishing the panel, the council shall request the
25 Washington academy of sciences, created in chapter 70.220 RCW, to
26 nominate fifteen scientists with recognized expertise in fields of
27 science essential to the recovery of Puget Sound. Nominees should
28 reflect the full range of scientific and engineering disciplines
29 involved in Puget Sound recovery. At a minimum, the Washington academy
30 of sciences shall consider making nominations from scientists
31 associated with federal, state, and local agencies, tribes, the
32 business and environmental communities, members of the K-12, college,
33 and university communities, and members of the board. The solicitation
34 should be to all sectors, and candidates may be from all public and
35 private sectors. Persons nominated by the Washington academy of
36 sciences must disclose any potential conflicts of interest, and any

1 financial relationship with any leadership councilmember, and disclose
2 sources of current financial support and contracts relating to Puget
3 Sound recovery.

4 (3) The panel shall select a chair and a vice-chair. Panel members
5 shall serve four-year terms, except that the council shall determine
6 initial terms of two, three, and four years to provide for staggered
7 terms. The council shall determine reappointments and select
8 replacements or additional members of the panel. No panel member may
9 serve longer than twelve years.

10 (4) The executive director shall designate a lead staff scientist
11 to coordinate panel actions, and administrative staff to support panel
12 activities. The legislature intends to provide ongoing funding for
13 staffing of the panel to ensure that it has sufficient capacity to
14 provide independent scientific advice.

15 (5) The executive director of the partnership and the science panel
16 shall explore a shared state and federal responsibility for the
17 staffing and administration of the panel. In the event that a
18 federally sponsored Puget Sound recovery office is created, the council
19 may propose that such office provide for staffing and administration of
20 the panel.

21 ~~(6) ((The panel shall assist the council in developing and revising
22 the action agenda, making recommendations to the action agenda, and
23 making recommendations to the council for updates or revisions.~~

24 ~~(7))~~ Members of the panel shall be reimbursed for travel expenses
25 under RCW 43.03.050 and 43.03.060, and based upon the availability of
26 funds, the council may contract with members of the panel for
27 compensation for their services under chapter 39.29 RCW. If appointees
28 to the panel are employed by the federal, state, tribal, or local
29 governments, the council may enter into interagency personnel
30 agreements.

31 **Sec. 706.** RCW 90.71.280 and 2009 c 99 s 2 are each amended to read
32 as follows:

33 (1) The panel shall:

34 (a) Assist the council, board, and executive director in carrying
35 out the obligations of the partnership, including ~~((preparing and))~~
36 updating the action agenda;

1 (b) As provided in RCW 90.71.290, assist the partnership in
2 ((developing)) maintaining an ecosystem level strategic science program
3 that:

4 (i) Addresses monitoring, modeling, data management, and research;
5 and

6 (ii) Identifies science gaps and recommends research priorities;

7 (c) ((Develop—and)) Provide oversight of a competitive peer-
8 reviewed process for soliciting, strategically prioritizing, and
9 funding research and modeling projects;

10 (d) ((Develop—and)) Implement an appropriate process for peer
11 review of monitoring, research, and modeling conducted as part of the
12 strategic science program;

13 (e) Provide input to the executive director in developing biennial
14 implementation strategies; and

15 (f) Offer an ecosystem-wide perspective on the science work being
16 conducted in Puget Sound and by the partnership.

17 (2) The panel should collaborate with other scientific groups and
18 consult other scientists in conducting its work. To the maximum extent
19 possible, the panel should seek to integrate the state-sponsored Puget
20 Sound science program with the Puget Sound science activities of
21 federal agencies, including working toward an integrated research
22 agenda and Puget Sound science work plan.

23 ((~~(3) By July 31, 2008, the panel shall identify environmental~~
24 ~~indicators measuring the health of Puget Sound, and recommend~~
25 ~~environmental benchmarks that need to be achieved to meet the goals of~~
26 ~~the action agenda. The council shall confer with the panel on~~
27 ~~incorporating the indicators and benchmarks into the action agenda.~~))

28 **Sec. 707.** RCW 90.71.290 and 2007 c 341 s 11 are each amended to
29 read as follows:

30 (1) The strategic science program shall be developed by the panel
31 with assistance and staff support provided by the executive director.
32 The science program may include:

33 (a) Continuation of the Puget Sound assessment and monitoring
34 program, as provided in RCW 90.71.060, as well as other monitoring or
35 modeling programs deemed appropriate by the executive director;

36 (b) Development of a monitoring program, in addition to the

1 provisions of RCW 90.71.060, including baselines, protocols,
2 guidelines, and quantifiable performance measures(~~(, to be recommended~~
3 ~~as an element of the action agenda))~~);

4 (c) Recommendations regarding data collection and management to
5 facilitate easy access and use of data by all participating agencies
6 and the public; and

7 (d) A list of critical research needs.

8 (2) The strategic science program may not become an official
9 document until a majority of the members of the council votes for its
10 adoption.

11 (3) A Puget Sound science update shall be developed by the panel
12 with assistance and staff support provided by the executive director.
13 The panel shall submit the initial update to the executive director by
14 April 2010, and subsequent updates as necessary to reflect new
15 scientific understandings. The update shall:

16 (a) Describe the current scientific understanding of various
17 physical attributes of Puget Sound;

18 (b) Serve as the scientific basis for the selection of
19 environmental indicators measuring the health of Puget Sound; and

20 (c) Serve as the scientific basis for the status and trends of
21 those environmental indicators.

22 (4) The executive director shall provide the Puget Sound science
23 update to the Washington academy of sciences, the governor, and
24 appropriate legislative committees, and include:

25 (a) A summary of information in existing updates; and

26 (b) Changes adopted in subsequent updates and in the state of the
27 Sound reports produced pursuant to RCW 90.71.370.

28 (5) A biennial science work plan shall be developed by the panel,
29 with assistance and staff support provided by the executive director,
30 and approved by the council. The biennial science work plan shall
31 include, at a minimum:

32 (a) Identification of recommendations from scientific and technical
33 reports relating to Puget Sound;

34 (b) A description of the Puget Sound science-related activities
35 being conducted by various entities in the region, including studies,
36 models, monitoring, research, and other appropriate activities;

37 (c) A description of whether the ongoing work addresses the

1 recommendations and, if not, identification of necessary actions to
2 fill gaps;

3 (d) Identification of specific biennial science work actions to be
4 done over the course of the work plan, and how these actions address
5 science needs in Puget Sound; and

6 (e) Recommendations for improvements to the ongoing science work in
7 Puget Sound.

8 **Sec. 708.** RCW 90.71.310 and 2008 c 329 s 926 are each amended to
9 read as follows:

10 ~~((1) The council shall develop a science based action agenda that
11 leads to the recovery of Puget Sound by 2020 and achievement of the
12 goals and objectives established in RCW 90.71.300. The action agenda
13 shall:~~

14 ~~(a) Address all geographic areas of Puget Sound including upland
15 areas and tributary rivers and streams that affect Puget Sound;~~

16 ~~(b) Describe the problems affecting Puget Sound's health using
17 supporting scientific data, and provide a summary of the historical
18 environmental health conditions of Puget Sound so as to determine past
19 levels of pollution and restorative actions that have established the
20 current health conditions of Puget Sound;~~

21 ~~(c) Meet the goals and objectives described in RCW 90.71.300,
22 including measurable outcomes for each goal and objective specifically
23 describing what will be achieved, how it will be quantified, and how
24 progress towards outcomes will be measured. The action agenda shall
25 include near term and long term benchmarks designed to ensure
26 continuous progress needed to reach the goals, objectives, and
27 designated outcomes by 2020. The council shall consult with the panel
28 in developing these elements of the plan;~~

29 ~~(d) Identify and prioritize the strategies and actions necessary to
30 restore and protect Puget Sound and to achieve the goals and objectives
31 described in RCW 90.71.300;~~

32 ~~(e) Identify the agency, entity, or person responsible for
33 completing the necessary strategies and actions, and potential sources
34 of funding;~~

35 ~~(f) Include prioritized actions identified through the assembled
36 proposals from each of the seven action areas and the identification~~

1 ~~and assessment of ecosystem scale programs as provided in RCW~~
2 ~~90.71.260;~~

3 ~~(g) Include specific actions to address aquatic rehabilitation zone~~
4 ~~one, as defined in RCW 90.88.010;~~

5 ~~(h) Incorporate any additional goals adopted by the council; and~~

6 ~~(i) Incorporate appropriate actions to carry out the biennial~~
7 ~~science work plan created in RCW 90.71.290.~~

8 ~~(2) In developing the action agenda and any subsequent revisions,~~
9 ~~the council shall, when appropriate, incorporate the following:~~

10 ~~(a) Water quality, water quantity, sediment quality, watershed,~~
11 ~~marine resource, and habitat restoration plans created by governmental~~
12 ~~agencies, watershed groups, and marine and shoreline groups. The~~
13 ~~council shall consult with the board in incorporating these plans;~~

14 ~~(b) Recovery plans for salmon, orca, and other species in Puget~~
15 ~~Sound listed under the federal endangered species act;~~

16 ~~(c) Existing plans and agreements signed by the governor, the~~
17 ~~commissioner of public lands, other state officials, or by federal~~
18 ~~agencies;~~

19 ~~(d) Appropriate portions of the Puget Sound water quality~~
20 ~~management plan existing on July 1, 2007.~~

21 ~~(3) Until the action agenda is adopted, the existing Puget Sound~~
22 ~~management plan and the 2007-09 Puget Sound biennial plan shall remain~~
23 ~~in effect. The existing Puget Sound management plan shall also~~
24 ~~continue to serve as the comprehensive conservation and management plan~~
25 ~~for the purposes of the national estuary program described in section~~
26 ~~320 of the federal clean water act, until replaced by the action agenda~~
27 ~~and approved by the United States environmental protection agency as~~
28 ~~the new comprehensive conservation and management plan.~~

29 ~~(4) The council shall adopt the action agenda by December 1,~~
30 ~~2008.)) The council ((shall)) may revise the action agenda as needed,~~
31 ~~and revise the implementation strategies every two years using an~~
32 ~~adaptive management process informed by tracking actions and monitoring~~
33 ~~results in Puget Sound. In revising the action agenda and the~~
34 ~~implementation strategies, the council shall consult the panel and the~~
35 ~~board and provide opportunity for public review and comment. Biennial~~
36 ~~updates shall:~~

37 ~~((a)) (1) Contain a detailed description of prioritized actions~~

1 necessary in the biennium to achieve the goals, objectives, outcomes,
2 and benchmarks of progress identified in the action agenda;

3 ~~((b))~~ (2) Identify the agency, entity, or person responsible for
4 completing the necessary action; and

5 ~~((c))~~ (3) Establish biennial benchmarks for near-term actions.

6 ~~((5) The action agenda shall be organized and maintained in a
7 single document to facilitate public accessibility to the plan.))~~

8 **Sec. 709.** RCW 90.71.340 and 2007 c 341 s 16 are each amended to
9 read as follows:

10 (1) The legislature intends that fiscal incentives and
11 disincentives be used as accountability measures designed to achieve
12 consistency with the action agenda by:

13 (a) Ensuring that projects and activities in conflict with the
14 action agenda are not funded;

15 (b) Aligning environmental investments with strategic priorities of
16 the action agenda; and

17 (c) Using state grant and loan programs to encourage consistency
18 with the action agenda.

19 (2) The council shall adopt measures to ensure that funds
20 appropriated for implementation of the action agenda and identified by
21 proviso or specifically referenced in the omnibus appropriations act
22 pursuant to RCW 43.88.030(1)(g) are expended in a manner that will
23 achieve the intended results. In developing such performance measures,
24 the council shall establish criteria for the expenditure of the funds
25 consistent with the responsibilities and timelines under the action
26 agenda, and require reporting and tracking of funds expended. The
27 council may adopt other measures, such as requiring interagency
28 agreements regarding the expenditure of provisoed or specifically
29 referenced Puget Sound funds.

30 (3) The partnership shall work with other state agencies providing
31 grant and loan funds or other financial assistance for projects and
32 activities that impact the health of the Puget Sound ecosystem under
33 chapters 43.155, 70.105D, 70.146, 77.85, 79.105, 79A.15, 89.08, and
34 90.50A RCW to, within the authorities of the programs, develop
35 consistent funding criteria that prohibits funding projects and
36 activities that are in conflict with the action agenda.

1 (4) (~~The partnership shall develop a process and criteria by which~~
2 ~~entities that consistently achieve outstanding progress in implementing~~
3 ~~the action agenda are designated as Puget Sound partners. State~~
4 ~~agencies shall work with the partnership to revise their grant, loan,~~
5 ~~or other financial assistance allocation criteria to create a~~
6 ~~preference for entities designated as Puget Sound partners for funds~~
7 ~~allocated to the Puget Sound basin, pursuant to RCW 43.155.070,~~
8 ~~70.105D.070, 70.146.070, 77.85.130, 79.105.150, 79A.15.040, 89.08.520,~~
9 ~~and 90.50A.040. This process shall be developed on a timeline that~~
10 ~~takes into consideration state grant and loan funding cycles.~~

11 (5)) Any entity that receives state funds to implement actions
12 required in the action agenda shall report biennially to the council on
13 progress in completing the action and whether expected results have
14 been achieved within the time frames specified in the action agenda.

15 **Sec. 710.** RCW 90.71.360 and 2007 c 341 s 18 are each amended to
16 read as follows:

17 (1) The partnership shall not have regulatory authority nor
18 authority to transfer the responsibility for, or implementation of, any
19 state regulatory program, unless otherwise specifically authorized by
20 the legislature.

21 (2) The action agenda (~~may~~) does not create a legally enforceable
22 duty to review or approve permits, or to adopt plans or regulations.
23 The action agenda (~~may~~) does not authorize the adoption of rules
24 under chapter 34.05 RCW creating a legally enforceable duty applicable
25 to the review or approval of permits or to the adoption of plans or
26 regulations. No action of the partnership may alter the forest
27 practices rules adopted pursuant to chapter 76.09 RCW, or any
28 associated habitat conservation plan. Any changes in forest practices
29 identified by the processes established in this chapter as necessary to
30 fully recover the health of Puget Sound by 2020 may only be realized
31 through the processes established in RCW 76.09.370 and other designated
32 processes established in Title 76 RCW. Nothing in this subsection or
33 subsection (1) of this section limits the accountability provisions of
34 this chapter.

35 (3) Nothing in this chapter limits or alters the existing legal
36 authority of local governments, nor does it create a legally
37 enforceable duty upon local governments. When a local government

1 proposes to take an action inconsistent with the action agenda, it
2 shall inform the council and identify the reasons for taking the
3 action. If a local government chooses to take an action inconsistent
4 with the action agenda or chooses not to take action required by the
5 action agenda, it will be subject to the accountability measures in
6 this chapter which can be used at the discretion of the council.

7 **Sec. 711.** RCW 43.155.070 and 2009 c 518 s 16 are each amended to
8 read as follows:

9 (1) To qualify for loans or pledges under this chapter the board
10 must determine that a local government meets all of the following
11 conditions:

12 (a) The city or county must be imposing a tax under chapter 82.46
13 RCW at a rate of at least one-quarter of one percent;

14 (b) The local government must have developed a capital facility
15 plan; and

16 (c) The local government must be using all local revenue sources
17 which are reasonably available for funding public works, taking into
18 consideration local employment and economic factors.

19 (2) Except where necessary to address a public health need or
20 substantial environmental degradation, a county, city, or town planning
21 under RCW 36.70A.040 must have adopted a comprehensive plan, including
22 a capital facilities plan element, and development regulations as
23 required by RCW 36.70A.040. This subsection does not require any
24 county, city, or town planning under RCW 36.70A.040 to adopt a
25 comprehensive plan or development regulations before requesting or
26 receiving a loan or loan guarantee under this chapter if such request
27 is made before the expiration of the time periods specified in RCW
28 36.70A.040. A county, city, or town planning under RCW 36.70A.040
29 which has not adopted a comprehensive plan and development regulations
30 within the time periods specified in RCW 36.70A.040 is not prohibited
31 from receiving a loan or loan guarantee under this chapter if the
32 comprehensive plan and development regulations are adopted as required
33 by RCW 36.70A.040 before submitting a request for a loan or loan
34 guarantee.

35 (3) In considering awarding loans for public facilities to special
36 districts requesting funding for a proposed facility located in a
37 county, city, or town planning under RCW 36.70A.040, the board shall

1 consider whether the county, city, or town planning under RCW
2 36.70A.040 in whose planning jurisdiction the proposed facility is
3 located has adopted a comprehensive plan and development regulations as
4 required by RCW 36.70A.040.

5 (4) The board shall develop a priority process for public works
6 projects as provided in this section. The intent of the priority
7 process is to maximize the value of public works projects accomplished
8 with assistance under this chapter. The board shall attempt to assure
9 a geographical balance in assigning priorities to projects. The board
10 shall consider at least the following factors in assigning a priority
11 to a project:

12 (a) Whether the local government receiving assistance has
13 experienced severe fiscal distress resulting from natural disaster or
14 emergency public works needs;

15 ~~((b) (Except as otherwise conditioned by RCW 43.155.110, whether
16 the entity receiving assistance is a Puget Sound partner, as defined in
17 RCW 90.71.010;~~

18 ~~(c))~~ Whether the project is referenced in the action agenda
19 developed by the Puget Sound partnership under RCW 90.71.310;

20 ~~((d))~~ (c) Whether the project is critical in nature and would
21 affect the health and safety of a great number of citizens;

22 ~~((e))~~ (d) Whether the applicant has developed and adhered to
23 guidelines regarding its permitting process for those applying for
24 development permits consistent with section 1(2), chapter 231, Laws of
25 2007;

26 ~~((f))~~ (e) The cost of the project compared to the size of the
27 local government and amount of loan money available;

28 ~~((g))~~ (f) The number of communities served by or funding the
29 project;

30 ~~((h))~~ (g) Whether the project is located in an area of high
31 unemployment, compared to the average state unemployment;

32 ~~((i))~~ (h) Whether the project is the acquisition, expansion,
33 improvement, or renovation by a local government of a public water
34 system that is in violation of health and safety standards, including
35 the cost of extending existing service to such a system;

36 ~~((j))~~ (i) Except as otherwise conditioned by RCW 43.155.120, and
37 effective one calendar year following the development of model
38 evergreen community management plans and ordinances under RCW

1 35.105.050, whether the entity receiving assistance has been
2 recognized, and what gradation of recognition was received, in the
3 evergreen community recognition program created in RCW 35.105.030;

4 ~~((k))~~ (j) The relative benefit of the project to the community,
5 considering the present level of economic activity in the community and
6 the existing local capacity to increase local economic activity in
7 communities that have low economic growth; and

8 ~~((l))~~ (k) Other criteria that the board considers advisable.

9 (5) Existing debt or financial obligations of local governments
10 shall not be refinanced under this chapter. Each local government
11 applicant shall provide documentation of attempts to secure additional
12 local or other sources of funding for each public works project for
13 which financial assistance is sought under this chapter.

14 (6) Before November 1st of each even-numbered year, the board shall
15 develop and submit to the appropriate fiscal committees of the senate
16 and house of representatives a description of the loans made under RCW
17 43.155.065, 43.155.068, and subsection (9) of this section during the
18 preceding fiscal year and a prioritized list of projects which are
19 recommended for funding by the legislature, including one copy to the
20 staff of each of the committees. The list shall include, but not be
21 limited to, a description of each project and recommended financing,
22 the terms and conditions of the loan or financial guarantee, the local
23 government jurisdiction and unemployment rate, demonstration of the
24 jurisdiction's critical need for the project and documentation of local
25 funds being used to finance the public works project. The list shall
26 also include measures of fiscal capacity for each jurisdiction
27 recommended for financial assistance, compared to authorized limits and
28 state averages, including local government sales taxes; real estate
29 excise taxes; property taxes; and charges for or taxes on sewerage,
30 water, garbage, and other utilities.

31 (7) The board shall not sign contracts or otherwise financially
32 obligate funds from the public works assistance account before the
33 legislature has appropriated funds for a specific list of public works
34 projects. The legislature may remove projects from the list
35 recommended by the board. The legislature shall not change the order
36 of the priorities recommended for funding by the board.

37 (8) Subsection (7) of this section does not apply to loans made
38 under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

1 (9) Loans made for the purpose of capital facilities plans shall be
2 exempted from subsection (7) of this section.

3 (10) To qualify for loans or pledges for solid waste or recycling
4 facilities under this chapter, a city or county must demonstrate that
5 the solid waste or recycling facility is consistent with and necessary
6 to implement the comprehensive solid waste management plan adopted by
7 the city or county under chapter 70.95 RCW.

8 (11) After January 1, 2010, any project designed to address the
9 effects of storm water or wastewater on Puget Sound may be funded under
10 this section only if the project is not in conflict with the action
11 agenda developed by the Puget Sound partnership under RCW 90.71.310.

12 **Sec. 712.** RCW 70.105D.070 and 2010 1st sp.s. c 37 s 942 are each
13 amended to read as follows:

14 (1) The state toxics control account and the local toxics control
15 account are hereby created in the state treasury.

16 (2) The following moneys shall be deposited into the state toxics
17 control account: (a) Those revenues which are raised by the tax
18 imposed under RCW 82.21.030 and which are attributable to that portion
19 of the rate equal to thirty-three one-hundredths of one percent; (b)
20 the costs of remedial actions recovered under this chapter or chapter
21 70.105A RCW; (c) penalties collected or recovered under this chapter;
22 and (d) any other money appropriated or transferred to the account by
23 the legislature. Moneys in the account may be used only to carry out
24 the purposes of this chapter, including but not limited to the
25 following activities:

26 (i) The state's responsibility for hazardous waste planning,
27 management, regulation, enforcement, technical assistance, and public
28 education required under chapter 70.105 RCW;

29 (ii) The state's responsibility for solid waste planning,
30 management, regulation, enforcement, technical assistance, and public
31 education required under chapter 70.95 RCW;

32 (iii) The hazardous waste cleanup program required under this
33 chapter;

34 (iv) State matching funds required under the federal cleanup law;

35 (v) Financial assistance for local programs in accordance with
36 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

1 (vi) State government programs for the safe reduction, recycling,
2 or disposal of hazardous wastes from households, small businesses, and
3 agriculture;

4 (vii) Hazardous materials emergency response training;

5 (viii) Water and environmental health protection and monitoring
6 programs;

7 (ix) Programs authorized under chapter 70.146 RCW;

8 (x) A public participation program, including regional citizen
9 advisory committees;

10 (xi) Public funding to assist potentially liable persons to pay for
11 the costs of remedial action in compliance with cleanup standards under
12 RCW 70.105D.030(2)(e) but only when the amount and terms of such
13 funding are established under a settlement agreement under RCW
14 70.105D.040(4) and when the director has found that the funding will
15 achieve both (A) a substantially more expeditious or enhanced cleanup
16 than would otherwise occur, and (B) the prevention or mitigation of
17 unfair economic hardship;

18 (xii) Development and demonstration of alternative management
19 technologies designed to carry out the hazardous waste management
20 priorities of RCW 70.105.150;

21 (xiii) During the 2009-2011 fiscal biennium, shoreline update
22 technical assistance; and

23 (xiv) During the 2009-2011 fiscal biennium, multijurisdictional
24 permitting teams.

25 (3) The following moneys shall be deposited into the local toxics
26 control account: Those revenues which are raised by the tax imposed
27 under RCW 82.21.030 and which are attributable to that portion of the
28 rate equal to thirty-seven one-hundredths of one percent.

29 (a) Moneys deposited in the local toxics control account shall be
30 used by the department for grants or loans to local governments for the
31 following purposes in descending order of priority:

32 (i) Remedial actions;

33 (ii) Hazardous waste plans and programs under chapter 70.105 RCW;

34 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
35 70.95I, and 70.105 RCW;

36 (iv) Funds for a program to assist in the assessment and cleanup of
37 sites of methamphetamine production, but not to be used for the initial

1 containment of such sites, consistent with the responsibilities and
2 intent of RCW 69.50.511; and

3 (v) Cleanup and disposal of hazardous substances from abandoned or
4 derelict vessels, defined for the purposes of this section as vessels
5 that have little or no value and either have no identified owner or
6 have an identified owner lacking financial resources to clean up and
7 dispose of the vessel, that pose a threat to human health or the
8 environment.

9 (b) Funds for plans and programs shall be allocated consistent with
10 the priorities and matching requirements established in chapters
11 70.105, 70.95C, 70.95I, and 70.95 RCW, except that (~~any applicant that~~
12 ~~is a Puget Sound partner, as defined in RCW 90.71.010, along with~~) any
13 project that is referenced in the action agenda developed by the Puget
14 Sound partnership under RCW 90.71.310, shall(~~(, except as conditioned~~
15 ~~by RCW 70.105D.120,)~~) receive priority for any available funding for
16 any grant or funding programs or sources that use a competitive bidding
17 process. During the 2007-2009 fiscal biennium, moneys in the account
18 may also be used for grants to local governments to retrofit public
19 sector diesel equipment and for storm water planning and implementation
20 activities.

21 (c) To expedite cleanups throughout the state, the department shall
22 partner with local communities and liable parties for cleanups. The
23 department is authorized to use the following additional strategies in
24 order to ensure a healthful environment for future generations:

25 (i) The director may alter grant-matching requirements to create
26 incentives for local governments to expedite cleanups when one of the
27 following conditions exists:

28 (A) Funding would prevent or mitigate unfair economic hardship
29 imposed by the clean-up liability;

30 (B) Funding would create new substantial economic development,
31 public recreational, or habitat restoration opportunities that would
32 not otherwise occur; or

33 (C) Funding would create an opportunity for acquisition and
34 redevelopment of vacant, orphaned, or abandoned property under RCW
35 70.105D.040(5) that would not otherwise occur;

36 (ii) The use of outside contracts to conduct necessary studies;

37 (iii) The purchase of remedial action cost-cap insurance, when
38 necessary to expedite multiparty clean-up efforts.

1 (d) To facilitate and expedite cleanups using funds from the local
2 toxics control account, during the 2009-2011 fiscal biennium the
3 director may establish grant-funded accounts to hold and disperse local
4 toxics control account funds and funds from local governments to be
5 used for remedial actions.

6 (4) Except for unanticipated receipts under RCW 43.79.260 through
7 43.79.282, moneys in the state and local toxics control accounts may be
8 spent only after appropriation by statute.

9 (5) Except during the 2009-2011 fiscal biennium, one percent of the
10 moneys deposited into the state and local toxics control accounts shall
11 be allocated only for public participation grants to persons who may be
12 adversely affected by a release or threatened release of a hazardous
13 substance and to not-for-profit public interest organizations. The
14 primary purpose of these grants is to facilitate the participation by
15 persons and organizations in the investigation and remedying of
16 releases or threatened releases of hazardous substances and to
17 implement the state's solid and hazardous waste management priorities.
18 No grant may exceed sixty thousand dollars. Grants may be renewed
19 annually. Moneys appropriated for public participation from either
20 account which are not expended at the close of any biennium shall
21 revert to the state toxics control account.

22 (6) No moneys deposited into either the state or local toxics
23 control account may be used for solid waste incinerator feasibility
24 studies, construction, maintenance, or operation, or, after January 1,
25 2010, for projects designed to address the restoration of Puget Sound,
26 funded in a competitive grant process, that are in conflict with the
27 action agenda developed by the Puget Sound partnership under RCW
28 90.71.310.

29 (7) The department shall adopt rules for grant or loan issuance and
30 performance.

31 (8) During the 2007-2009 and 2009-2011 fiscal biennia, the
32 legislature may transfer from the local toxics control account to
33 either the state general fund or the oil spill prevention account, or
34 both such amounts as reflect excess fund balance in the account.

35 (9) During the 2009-2011 fiscal biennium, the local toxics control
36 account may also be used for a standby rescue tug at Neah Bay, local
37 government shoreline update grants, private and public sector diesel

1 equipment retrofit, and oil spill prevention, preparedness, and
2 response activities.

3 (10) During the 2009-2011 fiscal biennium, the legislature may
4 transfer from the state toxics control account to the state general
5 fund such amounts as reflect the excess fund balance in the account.

6 **Sec. 713.** RCW 70.146.070 and 2008 c 299 s 26 are each amended to
7 read as follows:

8 (1) When making grants or loans for water pollution control
9 facilities, the department shall consider the following:

10 (a) The protection of water quality and public health;

11 (b) The cost to residential ratepayers if they had to finance water
12 pollution control facilities without state assistance;

13 (c) Actions required under federal and state permits and compliance
14 orders;

15 (d) The level of local fiscal effort by residential ratepayers
16 since 1972 in financing water pollution control facilities;

17 ~~((Except as otherwise conditioned by RCW 70.146.110, whether
18 the entity receiving assistance is a Puget Sound partner, as defined in
19 RCW 90.71.010;~~

20 ~~(f))~~ Whether the project is referenced in the action agenda
21 developed by the Puget Sound partnership under RCW 90.71.310;

22 ~~((g))~~ (f) Except as otherwise provided in RCW 70.146.120, and
23 effective one calendar year following the development and statewide
24 availability of model evergreen community management plans and
25 ordinances under RCW 35.105.050, whether the project is sponsored by an
26 entity that has been recognized, and what gradation of recognition was
27 received, in the evergreen community recognition program created in RCW
28 35.105.030;

29 ~~((h))~~ (g) The extent to which the applicant county or city, or if
30 the applicant is another public body, the extent to which the county or
31 city in which the applicant public body is located, has established
32 programs to mitigate nonpoint pollution of the surface or subterranean
33 water sought to be protected by the water pollution control facility
34 named in the application for state assistance; and

35 ~~((i))~~ (h) The recommendations of the Puget Sound partnership,
36 created in RCW 90.71.210, and any other board, council, commission, or

1 group established by the legislature or a state agency to study water
2 pollution control issues in the state.

3 (2) Except where necessary to address a public health need or
4 substantial environmental degradation, a county, city, or town planning
5 under RCW 36.70A.040 may not receive a grant or loan for water
6 pollution control facilities unless it has adopted a comprehensive
7 plan, including a capital facilities plan element, and development
8 regulations as required by RCW 36.70A.040. This subsection does not
9 require any county, city, or town planning under RCW 36.70A.040 to
10 adopt a comprehensive plan or development regulations before requesting
11 or receiving a grant or loan under this chapter if such request is made
12 before the expiration of the time periods specified in RCW 36.70A.040.
13 A county, city, or town planning under RCW 36.70A.040 which has not
14 adopted a comprehensive plan and development regulations within the
15 time periods specified in RCW 36.70A.040 is not prohibited from
16 receiving a grant or loan under this chapter if the comprehensive plan
17 and development regulations are adopted as required by RCW 36.70A.040
18 before submitting a request for a grant or loan.

19 (3) Whenever the department is considering awarding grants or loans
20 for public facilities to special districts requesting funding for a
21 proposed facility located in a county, city, or town planning under RCW
22 36.70A.040, it shall consider whether the county, city, or town
23 planning under RCW 36.70A.040 in whose planning jurisdiction the
24 proposed facility is located has adopted a comprehensive plan and
25 development regulations as required by RCW 36.70A.040.

26 (4) After January 1, 2010, any project designed to address the
27 effects of water pollution on Puget Sound may be funded under this
28 chapter only if the project is not in conflict with the action agenda
29 developed by the Puget Sound partnership under RCW 90.71.310.

30 **Sec. 714.** RCW 77.85.130 and 2007 c 341 s 36 and 2007 c 257 s 1 are
31 each reenacted and amended to read as follows:

32 (1) The salmon recovery funding board shall develop procedures and
33 criteria for allocation of funds for salmon habitat projects and salmon
34 recovery activities on a statewide basis to address the highest
35 priorities for salmon habitat protection and restoration. To the
36 extent practicable the board shall adopt an annual allocation of
37 funding. The allocation should address both protection and restoration

1 of habitat, and should recognize the varying needs in each area of the
2 state on an equitable basis. The board has the discretion to partially
3 fund, or to fund in phases, salmon habitat projects. The board may
4 annually establish a maximum amount of funding available for any
5 individual project, subject to available funding. No projects required
6 solely as a mitigation or a condition of permitting are eligible for
7 funding.

8 (2)(a) In evaluating, ranking, and awarding funds for projects and
9 activities the board shall give preference to projects that:

10 (i) Are based upon the limiting factors analysis identified under
11 RCW 77.85.060;

12 (ii) Provide a greater benefit to salmon recovery based upon the
13 stock status information contained in the department of fish and
14 wildlife salmonid stock inventory (SASSI), the salmon and steelhead
15 habitat inventory and assessment project (SSHIAP), and any comparable
16 science-based assessment when available;

17 (iii) Will benefit listed species and other fish species;

18 (iv) Will preserve high quality salmonid habitat;

19 (v) Are included in a regional or watershed-based salmon recovery
20 plan that accords the project, action, or area a high priority for
21 funding; and

22 ~~(vi) ((Are, except as provided in RCW 77.85.240, sponsored by an~~
23 ~~entity that is a Puget Sound partner, as defined in RCW 90.71.010; and~~

24 ~~(vii))~~ Are projects referenced in the action agenda developed by
25 the Puget Sound partnership under RCW 90.71.310.

26 (b) In evaluating, ranking, and awarding funds for projects and
27 activities the board shall also give consideration to projects that:

28 (i) Are the most cost-effective;

29 (ii) Have the greatest matched or in-kind funding;

30 (iii) Will be implemented by a sponsor with a successful record of
31 project implementation;

32 (iv) Involve members of the veterans conservation corps established
33 in RCW 43.60A.150; and

34 (v) Are part of a regionwide list developed by lead entities.

35 (3) The board may reject, but not add, projects from a habitat
36 project list submitted by a lead entity for funding.

37 (4) The board shall establish criteria for determining when block
38 grants may be made to a lead entity. The board may provide block

1 grants to the lead entity to implement habitat project lists developed
2 under RCW 77.85.050, subject to available funding. The board shall
3 determine an equitable minimum amount of project funds for each
4 recovery region, and shall distribute the remainder of funds on a
5 competitive basis. The board may also provide block grants to the lead
6 entity or regional recovery organization to assist in carrying out
7 functions described under this chapter. Block grants must be expended
8 consistent with the priorities established for the board in subsection
9 (2) of this section. Lead entities or regional recovery organizations
10 receiving block grants under this subsection shall provide an annual
11 report to the board summarizing how funds were expended for activities
12 consistent with this chapter, including the types of projects funded,
13 project outcomes, monitoring results, and administrative costs.

14 (5) The board may waive or modify portions of the allocation
15 procedures and standards adopted under this section in the award of
16 grants or loans to conform to legislative appropriations directing an
17 alternative award procedure or when the funds to be awarded are from
18 federal or other sources requiring other allocation procedures or
19 standards as a condition of the board's receipt of the funds. The
20 board shall develop an integrated process to manage the allocation of
21 funding from federal and state sources to minimize delays in the award
22 of funding while recognizing the differences in state and legislative
23 appropriation timing.

24 (6) The board may award a grant or loan for a salmon recovery
25 project on private or public land when the landowner has a legal
26 obligation under local, state, or federal law to perform the project,
27 when expedited action provides a clear benefit to salmon recovery, and
28 there will be harm to salmon recovery if the project is delayed. For
29 purposes of this subsection, a legal obligation does not include a
30 project required solely as a mitigation or a condition of permitting.

31 (7) Property acquired or improved by a project sponsor may be
32 conveyed to a federal agency if: (a) The agency agrees to comply with
33 all terms of the grant or loan to which the project sponsor was
34 obligated; or (b) the board approves: (i) Changes in the terms of the
35 grant or loan, and the revision or removal of binding deed of right
36 instruments; and (ii) a memorandum of understanding or similar document
37 ensuring that the facility or property will retain, to the extent
38 feasible, adequate habitat protections; and (c) the appropriate

1 legislative authority of the county or city with jurisdiction over the
2 project area approves the transfer and provides notification to the
3 board.

4 (8) Any project sponsor receiving funding from the salmon recovery
5 funding board that is not subject to disclosure under chapter 42.56 RCW
6 must, as a mandatory contractual prerequisite to receiving the funding,
7 agree to disclose any information in regards to the expenditure of that
8 funding as if the project sponsor was subject to the requirements of
9 chapter 42.56 RCW.

10 (9) After January 1, 2010, any project designed to address the
11 restoration of Puget Sound may be funded under this chapter only if the
12 project is not in conflict with the action agenda developed by the
13 Puget Sound partnership under RCW 90.71.310.

14 **Sec. 715.** RCW 79.105.150 and 2010 1st sp.s. c 37 s 949 are each
15 amended to read as follows:

16 (1) After deduction for management costs as provided in RCW
17 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys
18 received by the state from the sale or lease of state-owned aquatic
19 lands and from the sale of valuable material from state-owned aquatic
20 lands shall be deposited in the aquatic lands enhancement account which
21 is hereby created in the state treasury. After appropriation, these
22 funds shall be used solely for aquatic lands enhancement projects; for
23 the purchase, improvement, or protection of aquatic lands for public
24 purposes; for providing and improving access to the lands; and for
25 volunteer cooperative fish and game projects. During the 2009-2011
26 fiscal biennium, the aquatic lands enhancement account may also be used
27 for scientific research as part of the adaptive management process.
28 During the 2009-11 fiscal biennium, the legislature may transfer from
29 the aquatic lands enhancement account to the state general fund such
30 amounts as reflect excess fund balance of the account.

31 (2) In providing grants for aquatic lands enhancement projects, the
32 recreation and conservation funding board shall:

33 (a) Require grant recipients to incorporate the environmental
34 benefits of the project into their grant applications;

35 (b) Utilize the statement of environmental benefits,
36 consideration(~~(, except as provided in RCW 79.105.610, of whether the~~
37 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010,))~~ of

1 whether a project is referenced in the action agenda developed by the
2 Puget Sound partnership under RCW 90.71.310, and except as otherwise
3 provided in RCW 79.105.630, and effective one calendar year following
4 the development and statewide availability of model evergreen community
5 management plans and ordinances under RCW 35.105.050, whether the
6 applicant is an entity that has been recognized, and what gradation of
7 recognition was received, in the evergreen community recognition
8 program created in RCW 35.105.030 in its prioritization and selection
9 process; and

10 (c) Develop appropriate outcome-focused performance measures to be
11 used both for management and performance assessment of the grants.

12 (3) To the extent possible, the department should coordinate its
13 performance measure system with other natural resource-related agencies
14 as defined in RCW 43.41.270.

15 (4) The department shall consult with affected interest groups in
16 implementing this section.

17 (5) After January 1, 2010, any project designed to address the
18 restoration of Puget Sound may be funded under this chapter only if the
19 project is not in conflict with the action agenda developed by the
20 Puget Sound partnership under RCW 90.71.310.

21 **Sec. 716.** RCW 79A.15.040 and 2008 c 299 s 29 are each amended to
22 read as follows:

23 (1) Moneys appropriated for this chapter to the habitat
24 conservation account shall be distributed in the following way:

25 (a) Not less than forty percent through June 30, 2011, at which
26 time the amount shall become forty-five percent, for the acquisition
27 and development of critical habitat;

28 (b) Not less than thirty percent for the acquisition and
29 development of natural areas;

30 (c) Not less than twenty percent for the acquisition and
31 development of urban wildlife habitat; and

32 (d) Not less than ten percent through June 30, 2011, at which time
33 the amount shall become five percent, shall be used by the board to
34 fund restoration and enhancement projects on state lands. Only the
35 department of natural resources and the department of fish and wildlife
36 may apply for these funds to be used on existing habitat and natural
37 area lands.

1 (2)(a) In distributing these funds, the board retains discretion to
2 meet the most pressing needs for critical habitat, natural areas, and
3 urban wildlife habitat, and is not required to meet the percentages
4 described in subsection (1) of this section in any one biennium.

5 (b) If not enough project applications are submitted in a category
6 within the habitat conservation account to meet the percentages
7 described in subsection (1) of this section in any biennium, the board
8 retains discretion to distribute any remaining funds to the other
9 categories within the account.

10 (3) Only state agencies may apply for acquisition and development
11 funds for natural areas projects under subsection (1)(b) of this
12 section.

13 (4) State and local agencies may apply for acquisition and
14 development funds for critical habitat and urban wildlife habitat
15 projects under subsection (1)(a) and (c) of this section.

16 (5)(a) Any lands that have been acquired with grants under this
17 section by the department of fish and wildlife are subject to an amount
18 in lieu of real property taxes and an additional amount for control of
19 noxious weeds as determined by RCW 77.12.203.

20 (b) Any lands that have been acquired with grants under this
21 section by the department of natural resources are subject to payments
22 in the amounts required under the provisions of RCW 79.70.130 and
23 79.71.130.

24 (6) Except as otherwise conditioned by RCW (~~79A.15.140 or~~)
25 79A.15.150, the board in its evaluating process shall consider the
26 following in determining distribution priority:

27 (~~(a) (Whether the entity applying for funding is a Puget Sound
28 partner, as defined in RCW 90.71.010;~~

29 ~~(b))~~) Effective one calendar year following the development and
30 statewide availability of model evergreen community management plans
31 and ordinances under RCW 35.105.050, whether the entity receiving
32 assistance has been recognized, and what gradation of recognition was
33 received, in the evergreen community recognition program created in RCW
34 35.105.030; and

35 (~~(c)~~) (b) Whether the project is referenced in the action agenda
36 developed by the Puget Sound partnership under RCW 90.71.310.

37 (7) After January 1, 2010, any project designed to address the

1 restoration of Puget Sound may be funded under this chapter only if the
2 project is not in conflict with the action agenda developed by the
3 Puget Sound partnership under RCW 90.71.310.

4 **Sec. 717.** RCW 89.08.520 and 2008 c 299 s 27 are each amended to
5 read as follows:

6 (1) In administering grant programs to improve water quality and
7 protect habitat, the commission shall:

8 (a) Require grant recipients to incorporate the environmental
9 benefits of the project into their grant applications;

10 (b) In its grant prioritization and selection process, consider:

11 (i) The statement of environmental benefits;

12 (ii) Whether, except as ~~((conditioned by RCW 89.08.580, the~~
13 ~~applicant is a Puget Sound partner, as defined in RCW 90.71.010, and~~
14 ~~except as))~~ otherwise provided in RCW 89.08.590, and effective one
15 calendar year following the development and statewide availability of
16 model evergreen community management plans and ordinances under RCW
17 35.105.050, ~~((whether))~~ the applicant is an entity that has been
18 recognized, and what gradation of recognition was received, in the
19 evergreen community recognition program created in RCW 35.105.030; and

20 (iii) Whether the project is referenced in the action agenda
21 developed by the Puget Sound partnership under RCW 90.71.310; and

22 (c) Not provide funding, after January 1, 2010, for projects
23 designed to address the restoration of Puget Sound that are in conflict
24 with the action agenda developed by the Puget Sound partnership under
25 RCW 90.71.310.

26 (2)(a) The commission shall also develop appropriate outcome-
27 focused performance measures to be used both for management and
28 performance assessment of the grant program.

29 (b) The commission shall work with the districts to develop uniform
30 performance measures across participating districts and, to the extent
31 possible, the commission should coordinate its performance measure
32 system with other natural resource-related agencies as defined in RCW
33 43.41.270. The commission shall consult with affected interest groups
34 in implementing this section.

35 NEW SECTION. **Sec. 718.** The following acts or parts of acts are
36 each repealed:

- 1 (1) RCW 43.155.110 (Puget Sound partners) and 2007 c 341 s 25;
- 2 (2) RCW 70.105D.120 (Puget Sound partners) and 2007 c 341 s 31;
- 3 (3) RCW 70.146.110 (Puget Sound partners) and 2007 c 341 s 27;
- 4 (4) RCW 77.85.240 (Puget Sound partners) and 2007 c 341 s 37;
- 5 (5) RCW 79.105.610 (Puget Sound partners) and 2007 c 341 s 33;
- 6 (6) RCW 79A.15.140 (Puget Sound partners) and 2007 c 341 s 35;
- 7 (7) RCW 89.08.580 (Puget Sound partners) and 2007 c 341 s 29;
- 8 (8) RCW 90.50A.080 (Puget Sound partners) and 2007 c 341 s 40; and
- 9 (9) RCW 90.71.300 (Action agenda--Goals and objectives) and 2007 c
- 10 341 s 12.

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